

**Centre for Human Rights Education
Faculty of Humanities**

The Maldives in Transition: Human Rights and Voices of Dissent

Aminath Didi

**This thesis is presented for the Degree of
Doctor of Philosophy
of
Curtin University**

February 2012

THE MALDIVES IN TRANSITION: HUMAN RIGHTS AND VOICES OF DISSENT



Black Friday Protests 2004

Photo by A S Moosa

Aminath Didi

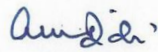
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DECLARATION

To the best of my knowledge and belief this thesis contains no material previously published by any other person except where due acknowledgement has been made. This thesis contains no material which has been accepted for the award of any other degree or diploma in any university.

A handwritten signature in blue ink, appearing to read 'Aminath Didi', is centered on the page.

Aminath Didi

February 2012

ABSTRACT

This thesis explores the factors that have facilitated and inhibited the Maldives transition to a human rights respecting nation. The death of a young inmate in Maafushi Jail in September 2003 triggered events that led the Maldives to accept international human rights norms and to revise its Constitution. It also led the Maldives to embrace pluralistic democracy leading to the fall of a thirty-year dictatorial regime in 2008. Data gathered through interviews with activists and dissidents, as well as policy and law makers were analysed using grounded theory methodology.

Increasing domestic opposition as well as international pressure from transnational advocacy networks and international aid donors steered the Maldives from a path of relative isolation in the 20th century, into the globalised world of the 21st century. Through the use of modern means of communication, the opposition took to direct action on the streets to bring about a regime change. The findings from the data highlight some of the challenges facing the Maldives in its transitioning from authoritarian to democratic rule. Voice has been given to dissent through this research. Key challenges still remain for the country to move forward in its path to democracy and human rights.

ACKNOWLEDGEMENTS

The journey on my thesis has been an interesting and challenging one that I could not have undertaken alone without the support and help of many others. To each and every one of them I owe a huge debt of gratitude. First and foremost I would like to acknowledge my father who passed away all too soon when I was fourteen years old. Many times when I felt like giving up, it was his last words to me on the need to attain a good education that has kept me going. I am also extremely grateful to my mother, my sisters and my brothers for putting up with my many long distance telephone calls for a chat and help with so many things. I owe much to my son for having put up with my many late nights at the computer, for being a sounding board sometimes, and for patiently helping with the final formatting of the document. All of them have pushed me on to get me to this point.

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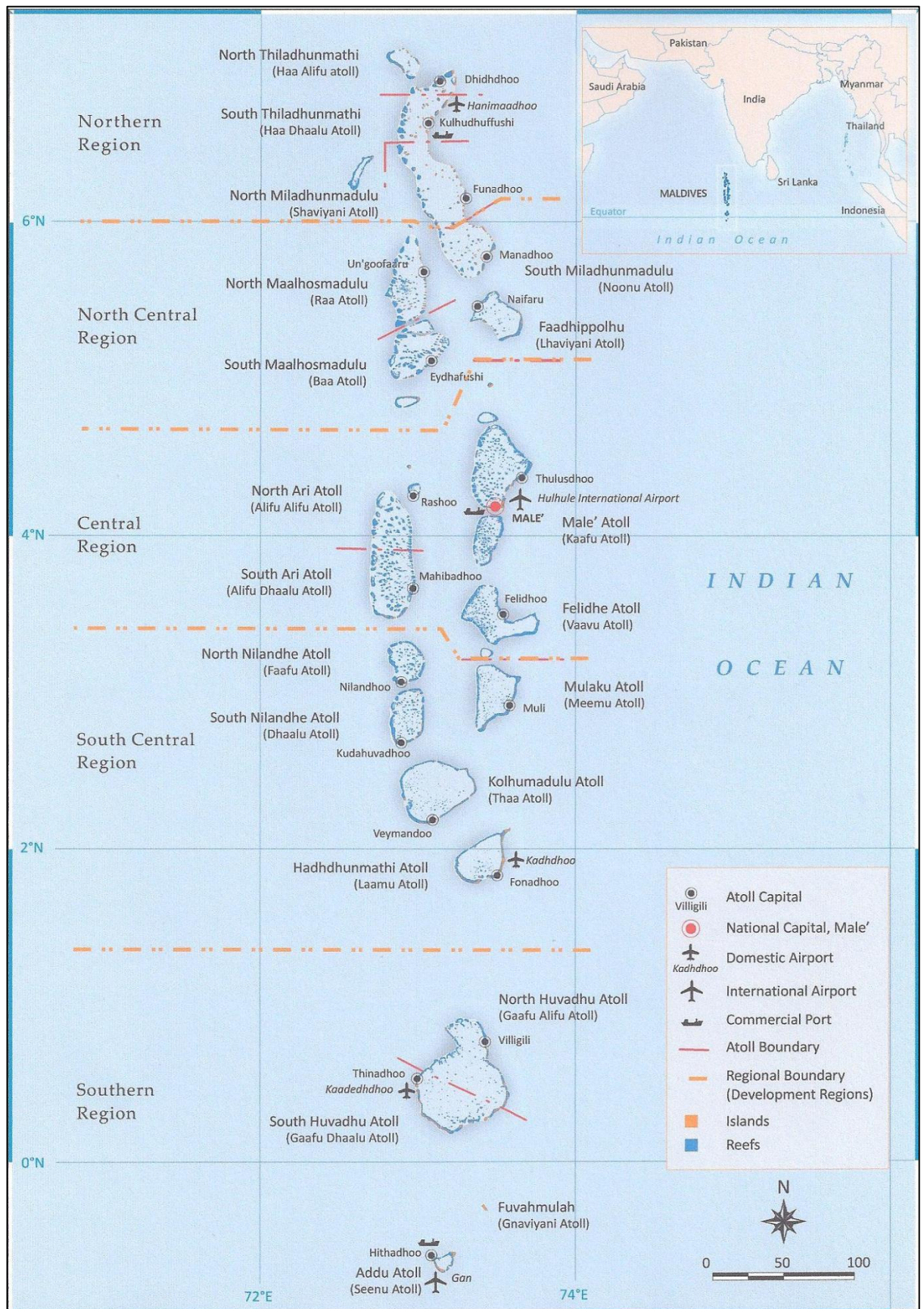
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MAP OF THE MALDIVES



Source: Seventh National Development Plan 2006 – 2010

LIST OF ABBREVIATIONS

AP	Adhaalath Party
ARI	Acute Respiratory Infections
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on Elimination of All Forms of Discrimination Against Women
CHOGM	Commonwealth Heads of Government Meeting
CMAG	Commonwealth Ministerial Action Group
CONI	Commission of National Inquiry
CRC	Convention on the Rights of the Child
DER	Department of External Resources
DhiTV	Dhi Television
DQP	Dhivehi Qaumee Party
DRP	Dhivehi Rayyithunge Party
GCE	General Certificate of Education
GDP	Gross Domestic Product
GNI	Gross National Income
HRCM	Human Rights Commission of the Maldives
IBHR	International Bill of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
IDP	Islamic Democratic Party
ILO	International Labour Organisation
IPCC	Intergovernmental Panel on Climate Change
JP	Jumhooree Party
LDC	Least Developed Country
LTTE	Liberation Tigers of Tamil Eelam

MDG	Millennium Development Goal
MDP	Maldives Democratic Party
MSDP	Maldivian Social Democratic Party
MIC	Middle Income Country
MIVET	Maldives Institute for Vocational and Technical Education
MNC	Maldivian National Congress
MP	Member of Parliament
NA	Narcotics Anonymous
NGOs	Non-Governmental Organisations
NSS	National Security Service
OIC	Organisation of the Islamic Conference
OPCAT	Optional Protocol on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
PA	People's Alliance
PAP	Poverty Alleviation Party
PLOTE	People's Liberation of Tamil Eelam
PP	People's Party
PPM	Progressive Party of Maldives
SAARC	South Asian Association for Regional Cooperation
SLP	Social Liberal Party
TVET	Technical Vocational and Employment Training
TVM	Television Maldives
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Committee
VTV	Villa Television

1 INTRODUCTION TO THE STUDY

Impetus for the Research

A conflict among some inmates of Maafushi Jail in the Maldives on 19 September 2003 resulted in twelve inmates being removed from their cells and isolated in solitary confinement. Among the isolated was Evan Naseem, a 19 year-old boy imprisoned on drug-related charges. Evan insisted that he was not part of the disturbance and resisted the security guards' efforts to isolate him and is alleged to have hit a guard with a piece of wood. The anger of the guards was inflicted on Evan (Zafar, 2007). Beatings and torture were common at Maafushi Jail, but what happened on that day changed the course of history in the Maldives.

According to Zafar (2007), Evan was kept standing against the eastern wall of a workshop in the jail during the night with his hands over his head and handcuffed to steel bars on the wall. At least twelve security guards beat Evan with their bare hands, wooden planks, riot batons and boots. A doctor who examined Evan's body at Maafushi Jail recorded the time of death as 11.20 pm (Zafar, 2007). Early the next morning, on 20 September 2003, Evan's body was brought to the government hospital in Malé, the capital. When news of Evan's death reached his fellow inmates, they started a riot in prison. Security guards opened fire and killed at least one person and injured several more prisoners. Two more prisoners died of injuries later and 16 were seriously wounded (Moosa, 2005).

At the hospital the authorities showed Evan's body to his family before they tried to hastily bury it. Anecdotal evidence and media reports suggest that, in previous cases like this, torture victims were quickly buried, and families were either intimidated or paid to by the Government to stay silent. But Evan's

family refused to bury the body hastily, and as news of his death spread rapidly in Malé, people flocked to see the body after it was moved to the public cemetery. They were horrified to see the marks on Evan's body, which they believed were testament to the cruelty of the regime incumbent in the Maldives since 1978. Here is how one eye witness described what he saw:

I visited the cemetery in Malé, the capital island, and saw the dead body of this young man. I can honestly say that there was no part of his body that had not sustained a bruise, broken bones, cigarette-burn marks and black patches resulting from severe haemorrhaging (Moosa, 2005).

When the dead body of a second victim, Abdulla Ameen, was brought to the cemetery later that day with blood gushing from a bullet wound in his head, angry citizens went on a rampage on the streets of Malé (Zafar, 2007). Civil unrest ensued and riots broke out. Crowds of mostly young people rampaged through Malé destroying Government property and torching Government buildings. The angry mob overturned police vehicles setting them on fire, torched several police stations, the High Court and the Office of the Commissioner of Elections, and vandalised the People's Majlis (parliament building), all symbols of democracy. The unrest was eventually put down by riot police using tear gas.

Ziyau (2009) suggests that the civil unrest on 20 September 2003 was clear proof that Maldivians were fed up with the torture and human rights abuses in Maldivian jails. On that day, they were not only supporting the inmates who were tortured and killed, but were sending a clear message that they were standing up for human rights and demanding justice. This incident had occurred just as President Maumoon Abdul Gayoom was preparing to run for office for a sixth consecutive term. Promising widespread urgent reforms, Gayoom had launched his election campaign, but not before international criticism of his human rights record had encouraged dissidents to intensify their opposition to Gayoom (Shaheed & Upton, 2008). Concerned citizens, including the current President Mohamed Nasheed, fled to Sri Lanka in 2003 and formed

an opposition movement in exile, launching a massive campaign via the internet highlighting the brutality of the Gayoom regime. The Maldives Democratic Party (MDP) was declared as an opposition party in November 2003 in Colombo, Sri Lanka. While the idea of setting up an opposition political party had earlier been proposed in February 2001, it had been abandoned in June 2001 when the parliament voted against it. According to Shaheed and Upton (2008), the September 2003 riots clarified the effectiveness of street protests and the inability of the Government to deal with widespread civil unrest. Political activism, street activities and large gatherings thus characterised MDP's early activities.

In 2003, recognising the insecurity of his position, Gayoom promised change. On 11 November, he announced the beginning of a "*Governance Reform and Modernisation*" programme (Shaheed & Upton, 2008). In December 2003, the first ever human rights agency in the Maldives, the Maldives Human Rights Commission was set up, to counter public outrage, with a promise to make it compliant with the Paris Principles. Increased pressure from domestic pressure groups and the international community resulted in the Government being forced to announce a radical democratic reform agenda on 9 June 2004, promising to bring in sweeping political and legal reforms (ACHR, 2006). These reforms were expected to ensure greater transparency and accountability, meet public expectations, improve governance, establish rule of law and strengthen human rights protection through a new Constitution. This was expected to usher in a modern liberal democracy, with the first multi-party elections to be held in 2008. The reforms also included separation of powers between the executive, legislative and judiciary; parliamentary oversight of some public appointments; and the introduction of a limited presidential term (Shaheed & Upton, 2008).

Gayoom's proposed reforms disoriented his cabinet as well as confused the opposition and resulted in an upsurge of violence and unrest in Malé (Bonofer, 2010). Uncertainty and confrontation increased between the Government and the opposition with matters coming to a head on 13 August

2004 when a peaceful demonstration, which initially began on the evening of 12 August 2004 as a demand for the release of four political activists held by the police, turned overnight into a large gathering of over 3,000 people in the Republican Square. As the demonstration, later dubbed by the local media as the Black Friday Protests, grew, people demanded the resignation of President Gayoom and a number of his cabinet ministers. The Protests were forcefully ended on the afternoon of 13 August 2004, when the security forces used riot batons and tear gas on unarmed civilians, injuring a number of people, including children and women. A state of emergency was declared and over 250 activists were arrested. The Government shut down internet access and mobile phone services. The Constitution along with all fundamental rights was temporarily suspended, and demonstrations and expressing any views critical of the Government were banned. The opposition MDP activists along with many onlookers at the Square were detained and charged with sedition and treason. As Shaheed & Upton (2008) suggest, these actions were met with swift and harsh criticism from the international community, with calls for suspension of all non-humanitarian aid and the imposition of a travel ban to the Maldives. Gayoom's international isolation came to an end when the December 2004 Indian Ocean Tsunami struck the Maldives and the Government had to rely heavily on foreign aid from the international community for rebuilding and reconstruction. It also provided an opportunity for the strengthening of the domestic opposition, since Gayoom took a U-turn on dissidents and dropped charges against all detainees arrested following the Black Friday Protests.

My Human Rights Journey

The September 2003 incident was also a crucial point for me personally. As a consequence of the custodial deaths in Maafushi Jail, a Prison Oversight Committee was appointed by the Government on 28 January 2004 mandated with the task of visiting all detention facilities and periodically reporting to the President on the situation of existing detention facilities, with specific recommendations for improving conditions for detainees. The Committee consisted of six members appointed by the President – three parliamentarians and three judges. I was appointed as one of the members of parliament (MP)

and was the only female member of the Committee. At that time, and until the adoption of the new Constitution in 2008, parliament comprised of 50 members, eight of whom were appointed by the President while the other 42 members were elected by the people, representing two members each from the 20 atolls and Malé. I was one of the eight presidential appointees, and the other two MPs on the Committee were elected MPs. In addition to my role as an MP, I was also a senior official in the Government, heading the Department of External Resources of the Ministry of Foreign Affairs, the department responsible for procuring foreign aid for the Maldives. During this time and until the new Constitution of 2008 was adopted, there was no separate civil service and all Government staff were appointed by the President.

My frequent visits to the detention facilities over the course of 2004 and into early 2005 as a member of the Prison Oversight Committee were an eye-opener. I was shocked at the number of people incarcerated, especially young people. Although young people in the Maldives were significantly higher in proportion demographically than any other age-group, with the number of adolescents and youth at 40 per cent of the total population (MYDS, 2005: 12) and the median age of the population being 21 years (MPND, 2006), there appeared to be a significantly larger proportion of young people than any other age group in jail. This seemed in stark contrast to my own personal experiences as a young person in the Maldives.

At that time, even though the numbers of schools and other educational facilities were limited, most young people either attended them or were doing productive work in supporting their families, engaged mostly in activities such as fisheries or agriculture, especially on islands other than Malé. During my visits to prison, however, I met with a large number of young people with drug-related offences. Drug use was and still continues to be a criminal offence in the Maldives, and so a number of drug users ended up in jail. Similarly, a significant number of people were also detained for political reasons, for voicing discontent or opposition to the Government. Dissent or criticism of the Government resulted in arbitrary arrests and the risk of torture at the hands of

the security forces. Anecdotal evidence suggests that this had been a long-established practice in the Maldives, which was only discontinued when the current Government of President Nasheed came into power in November 2008. My visits to the jails during 2004-2005, coincided with a time of intense political upheaval, political activism and organised opposition in the country. Therefore, on my many visits to the jail, I was able to meet many of the political dissidents and pro-reformers arrested after the Black Friday demonstrations.

It also opened my eyes to the brutality and the authoritarian nature of the Government, and the lack of fundamental freedoms that are taken for granted in most Western liberal democracies such as Australia and the UK where I had been educated. I wanted to find out what was happening in the Maldives' system of governance that was creating discord between its people and the Government, and to look at the issue from a human rights perspective. This curiosity was further compounded when the Government failed to take action on the various reports that were submitted by the Prison Oversight Committee.

My visits to the jail and my work earlier with Foundation for the Advancement of Self-Help in Attaining Needs (FASHAN), a local NGO founded in 1988 with a group of friends, had made me conscious of the rapid decline in the status of the nation's youth, where the policies that had been developed and implemented on their behalf failed to improve their situation of relative isolation and exclusion from mainstream development. At the same time, I was made more acutely aware of these problems since I was trying to raise a teenage son during these turmoil times in the Maldives. I wanted to know and understand the problems that were affecting the younger generation. Although a number of youth had turned to drugs and other forms of deviant behaviour, my visits to the jails and the meetings with the political detainees made me realise that some people were actively taking a stand against the Government and voicing their discontent in order to make the future of Maldives better, even though it was met with severe repression. After the political climate changed in

2008 with the election of the new Government, I was able to interview some of these former political detainees for this research.

Significance of the Research

There is very little research carried out in the Maldives, and none of a human rights nature. Although this study uses an interdisciplinary approach to the study of human rights in the Maldives as described by Fiske and Briskman (2008), human rights issues, particularly human rights violations, are mostly talked about in the political domain. Prior to the current Nasheed Government coming into power, anyone remotely interested in expressing views on how the government worked would be considered as anti-government and would be treated with suspicion by the authorities. When I started my PhD studies in October 2007, no research on or in the Maldives could be carried out without prior approval from the Government. I wanted to understand why so many people were so disaffected and discontented with the Government. I also needed to know what was stopping the Maldives from becoming a liberal democracy such as those I had witnessed in the West during my studies. I was also eager to know why the Government was not willing to listen to the people and why they were resistant to change. Since there were no universities in the Maldives then, those of us who had a university education were educated abroad. Although we were given responsible jobs in the Government on our return home, we were unable to effectively contribute to the development of the country as everything was centralised and under the President's control.

With increasing domestic opposition and international pressure, the years 2005 and 2006 saw a number of fundamental changes being made across several areas of governance and human rights by the Gayoom Government, with more reforms promised in the future. After being appointed as Deputy Foreign Minister in 2005, I became part of a team that was responsible for the ratification of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Maldives acceded to the ICCPR and its first optional protocol as well as the ICESCR on 19 September 2006. *The Road Map for the Reform Agenda:*

Ushering in a Modern Democracy announced by the Government on 9 June 2004 was eventually published on 27 March 2006 and expressed a strong commitment to meeting international standards in human rights protection. In April 2006, the Government had issued a standing invitation to visit the Maldives to all special procedures, rapporteurs, and mandates of the UN Human Rights Council. However, with the Government backtracking on implementation, it was becoming increasingly clear that the Gayoom Government lacked a genuine commitment to change, as promised by the Reform Agenda. This was made especially clear when Gayoom announced his wishes to remain in power and to seek re-election for a seventh consecutive term in 2008, as one of the promised reforms was the limit on the presidential term. The result was that more and more people, including those working in the Government, were becoming increasingly disaffected by the Gayoom Government and how things were run in the country. With increasing trends of globalisation, greater international emphasis on human rights, and the cumulative effects of arbitrary detentions, according to Shaheed and Upton (2008), the Maldives had become a country “seething with discontent”. Political opposition had become a counter-culture especially for many of the country’s disaffected youth.

Increasing frustrations drove me to take a leave of absence from the Government in 2007 and to come to Australia to undertake my PhD studies. I wanted to make sense of the developments taking place in the Maldives. Given the existing conditions and the risks that were associated with voicing dissent or criticism of the Government, I had to be extra careful about how the research was designed. In the existing political climate then, I could not talk openly to people about such issues. The situation was extremely repressive and I knew that collecting data posed huge risks both for the interviewees and for me. Voicing discontent with the Government could result in arbitrary arrest and the risk of torture at the hands of the security forces. For the interviewees, if they were a Government employee, it could mean the loss of their job and the only means of survival. As for me, a Government employee on leave, studying on a topic of this nature was going to be a challenging and daunting task.

I was curious to understand what was happening in the Maldives, for it was a time of rapid political changes, and I also wanted to know what motivated some people to choose the paths that they did, particularly those who had been concerned enough to go into exile and to form an opposition movement against a Government that was heavily backed by the police and the military. As I was required to seek prior permission from the Government for my field work, I had to be extremely cautious on how my study was worded and designed. Even though I knew that I could collect primary data from the dissidents and political activists that I had met during my earlier visits to the jails, I knew that I would not have been given permission by the Government to collect data if I had named them as my primary respondents, as the Government would not approve criticism of its policies.

Designing the Study

I had to design my research methodology in such a way that it would minimise harm to the respondents. I initially planned to sample a cross-section of disaffected youth instead of purposively sampling dissidents as I knew young people were not generally viewed as a political threat to the Government. I planned to collect data through the use of a photo-survey rather than through direct in-depth interviews. I was also going to select my interviewees in consultation with the Ministry of Human Resources, Youth and Sports and NGOs working with young people. However, when I arrived in the field in the Maldives for data collection in December 2008, I found that the whole situation on the ground had changed significantly with the change in the government. In addition, my initial attempts at collecting data proved to be unsuccessful, and I realised then the importance of reassessing my research methods as I felt that I now had a valuable opportunity to get the information I wanted directly from sources that were vocal and critical of the past Government.

Improving the quality of life of the people of the Maldives has always been the central tenet of Government policy since the Maldives embarked on its course of modernisation and development during the mid-1970s. On the back of

the rapid social and economic progress achieved during the last three decades of the 20th century, human rights and democracy had moved to the national centre-stage domestically in the 21st century. From the time of Evan Naseem's death in September 2003, the Maldives had come under heavy scrutiny from a number of international organisations such as the United Nations, Amnesty International, Human Rights' Watch, International Committee of the Red Cross (ICRC), and many of the country's bilateral and multilateral development partners. International pressure was mounting for the Maldives to become less authoritarian and to embrace universal concepts of democracy and human rights. In 2005, international pressure and increasing domestic criticism forced the Government into allowing multi-party politics and, consequently, several opposition parties being formed. In 2008, it resulted in the first ever free and fair, multi-party presidential elections being held in October.

For the first time in the history of the Maldives, on 11 November 2008, a democratically elected Government led by President Mohamed Nasheed, who had been incarcerated a number of times by the Gayoom Government, had taken over office. The new Government was sworn in just one month prior to my first visit to the field to collect data. On my arrival in the field, I experienced first-hand the euphoria and jubilation of the people at having been able to defeat a long-standing authoritarian regime that had invoked fear and intimidation over its people for thirty long years. Although supporters of President Gayoom were stunned and dismayed by the defeat, the majority of the people were united in their jubilation at having been able to remove from power Gayoom, who had been dubbed by the international press as Asia's longest-serving ruler (Buncombe, 2008).

Although I had obtained permission for my study and had been in touch with Gayoom Government officials, when I arrived in the Maldives to collect data in December 2008, new officials had replaced them, and the situation was evolving quite rapidly as I was in the field. The very people who had been political activists during the past regime and whom I had met in jail were now in Government and this meant that I could now talk to them openly without any

fear of incriminating either them or myself. This was a welcome development and it meant that I could now collect data directly from primary sources – sources that had actively sacrificed a better part of their youth and young adult life in trying to bring about a change in the political system of the Maldives. With the new incumbent Government, the country was experiencing a period of rapid democratic transition, moving away from a very tightly controlled, authoritarian regime to a more democratic one which placed emphasis on respecting human values and human dignity. The new Government had no restrictions on research activities which meant that I no longer needed permission from the Government; nor did I need approval from them on who I could interview. This and my initial, unsuccessful attempts at gathering data, made me reassess my methods for the study and, as explained in Chapter 4, I returned to the field for a second time to collect data from April to May 2009.

At the time of writing the thesis, I cannot help but compare the Maldives' journey to democratic transition with those in a number of Arab countries in the Middle-East which have been going through similar transitions and political upheavals from 2010. I remember sitting glued to the TV all night watching BBC News as events unfolded in Egypt and thinking to myself how incredibly similar the reactions and responses by the Mubarak Government were to what had happened in the Maldives. Dubbed by the media as the "Arab Spring", the transitions that have occurred and are occurring across the Arab world in countries such as Tunisia, Egypt, Libya, Syria and Yemen have resonance with the Maldives' transition. The self-immolation of the young Tunisian street vendor, Mohammed Bouazizi, as a show of public protest at police brutality sparked widespread unrest and mass political uprisings in Tunisia, Egypt, Libya and much of the Arab world. Friedman (2011) suggests that oppressive regimes in these countries had been sitting on a volcano of liberal democratic discontent. The Arab Spring was a political uprising by the masses demanding liberal democratic reform. Unrests were fuelled by the power of the social media, which revolutionised political dissent and had tightly controlled, authoritarian governments scrambling to respond to this new player in the political arena.

According to Bunglawala (2011), for the past forty years, authoritarian dictators throughout the countries of the Middle-East and North Africa have ensured political stability via repression, while oil-hungry countries of the world watched on. It was mass instability and a whirlwind of street protests, uprisings, revolutions and civil war that is now delivering seismic shifts and progress to the political, economic and social landscapes of these countries. According to Friedman (2011) however, countries of the Arab world are not demonstrating the type of regime changes that occurred at the time of the collapse of Eastern European countries. In most of these countries, like Egypt and Libya, the regimes remain intact and the opposition is deeply divided between Islamists and secularists, and personalities and ideologies. In the case of the Maldives, the divide between pro-reformers and Islamists as well as those that believed in authoritarian rule became evident in the May 2009 parliamentary elections. Although all opposition parties had rallied around MDP and supported the election of Nasheed as President in 2008, ex-President Gayoom's party, the Dhivehi Rayyithunge Party (DRP) won the majority of seats in the newly constituted 77-seat parliament. Similar to the substantial support that Gaddafi received in Libya from his network of supporters who had benefited during his rule, supporters loyal to Gayoom still play a significant role in the country's political situation. The Maldives being a 100 per cent Muslim state, a significant part is also played by the Islamist Adhaalath Party (AP) in its political scene, similar in many respects to the Muslim Brotherhood of Egypt. The Adhaalath Party has its commitments to Islamic values, and is able to mobilise masses through emotional appeal, using religion as a tool. Just as the Arab Spring is yet to determine the cause of liberal democracy in the Middle-East and North Africa, over three years on from the overthrow of the Gayoom Government in the Maldives, it is still not clear whether the Maldives is on the path to a truly democratic, religiously moderate and modern state. (See Chapter 9: Postscript at the end of the thesis for political developments that had occurred in the Maldives after the submission of this thesis for examination and before its finalisation).

Since the Maldives is a resource poor nation, unlike the oil rich nations of the Middle-East, political transition to a democracy from authoritarian rule has not attracted as much international media attention or sympathy and support from other countries. Human rights thinking and awareness of human rights issues were largely lacking amongst the majority of the Maldives' population until incumbent President Nasheed and MDP started its campaigns to come into power. The current Nasheed Government's attempts in bringing in freedoms that were largely absent during the thirty-year rule of the previous Gayoom Government have been met with mixed results. For example, the new found freedom of expression has meant that people could now criticise the Government openly for the first time in the history of the country, with several opposition parties resorting to using the constitutionally-granted right to freedom of expression as an excuse to engage in hate speech against the constitutionally elected Government and to undermine the religious harmony of the country (Johnstone, 2012). This has resulted in giving voice to radical Islamist preaching, creating new and challenging dynamics in the Maldives' politics. Although the process of transition of power in the Maldives was generally peaceful and non-violent, the country is still unable to shake off the shackles of past brutality and corruption. Independent institutions such as the Anti-Corruption Commission and the Auditor General's Office are still unable to function effectively, and rule of law is still largely absent because of the lack of an unbiased judiciary.

The political situation over the past four years of this study has been extremely fluid and dynamic and where the country stands in terms of its democratic transition is yet to be seen. When I started off my research journey, four years ago, my concern had been the large numbers of disenfranchised young people disaffected by the long standing dictatorial rule of the previous regime. However, the elections of 2008 showed that almost everyone in the country, young and old, wanted a change. Since I had been unable to contribute towards a change from within the Government, and having witnessed first-hand the human rights abuses by the then Government, it became very frustrating. My work with the Foreign Ministry had also made me acutely aware of global

concerns with international human rights norms and human rights issues. The international community's concerns were constantly expressed during meetings with various diplomatic colleagues. I wanted this study to focus on the human rights situation in the Maldives, and what it meant for governance and democracy for the Maldives in the 21st century – an issue which appeared to be of significant concern for those who were working in opposition as well as reform-minded people working within the Government. This study, therefore, is as much my story as that of my interviewees. I wanted to study and understand what it was that the Maldives was going through.

Thus, the aim of my research is to examine factors that have facilitated and inhibited the Maldives' transition to a human rights respecting nation.

Even though my interviewees in this study were not expressing themselves consciously from a human rights perspective, it was obvious that their concerns were largely to do with fundamental freedoms and social equity. The interviews also highlighted the concerns expressed by the respondents towards the welfare of the people of the Maldives, especially the youth, who make up a significant majority of the total population. Applying grounded theory methods, I will be analysing their voices of dissent. Additional supplementary sources of empirical materials will be used in classifying and presenting the findings from this study.

Structure of the Thesis

In order to achieve the aim of the study, the thesis begins with the study setting in Chapter 2. In this chapter I provide a country background to help contextualise my findings and discussions. The Maldives is a small and isolated country, virtually unknown except as a tourist destination. The geography and the people, as well as the socio-cultural aspects including its history and culture, as well as the role of religion, play a significant part in shaping the country's political and socio-economic development as well as its peace and security. The chapter also looks at the country's system of governance and administration

and its justice system, which has important impacts on the human rights situation in the country.

Chapter 3 describes the discourse on human rights and establishes its importance in world history today. It clarifies some of the conceptual issues in the development of international human rights norms and the significance of the International Bill of Human Rights in international relations today. The chapter also describes how human rights can be classified into generations of rights, which is helpful in explaining some of the controversies surrounding the human rights debate. Using the five phase spiral model and applying it to the Maldives, the chapter also briefly describes how international human rights norms are practised. I conclude the chapter by identifying some of the gaps in the current literature and by indicating the significance of this study.

In Chapter 4, I detail the methodology used for the study to examine the factors that facilitate and inhibit respect for human rights in the Maldives. It describes briefly my research journey, before detailing the research design and the research process. The chapter describes why a qualitative interpretive methodology was selected and why informal conversational interviews were used for the collection of data from the respondents. It also describes how grounded theory methodology was adapted to code, conceptualise and categorise the empirical data gathered through the interviews and documentary analysis to produce the findings from this study.

Chapter 5 provides the findings on civil and political rights. Using the data obtained from interviews and through documentary analysis, as well personal observations by the researcher, issues related to civil and political rights are identified and presented. The findings are discussed using the four broad themes of governance, human rights abuses, failure of the criminal justice system, and resistance to change. I conclude the chapter by reflecting on what the findings mean for civil and political rights in the Maldives.

The findings on economic and social rights are presented in Chapter 6. These findings are presented under the following six broad themes: housing issues (including population and demographic changes and migration), lack of employment opportunities, poverty and inequality, access to education, health (including the problem of drug use), and climate change. The implications of these findings on economic and social rights in the Maldives are reflected upon in the conclusion.

In Chapter 7, I present findings on cultural and religious rights. I have presented them in a separate chapter because of the importance of the part that religion plays in the Maldives' cultural context. Issues related to the four broad themes: changing social values, growing religious extremism, alienation and social exclusion, and increasing anti-social behaviour and gang violence are presented and discussed in this chapter. I conclude the chapter by reflecting on the implications of these findings on cultural and religious rights in the Maldives.

Chapter 8 concludes the thesis by reflecting on the research journey and by presenting an overview of the findings from the previous chapters. Implications of the research findings and how it has inhibited and facilitated human rights in the Maldives are discussed. The chapter also reflects on the way forward for the country if it is to continue progressing on its path to democracy and human rights.

After the submission of the thesis for examination and before its finalisation, a number of developments occurred in the political landscape of the Maldives which had a significant impact on the respect for human rights in the country. A brief reflection on these developments is presented as a postscript in Chapter 9.

2

The Study Setting

Introduction

This chapter provides a background to the study setting. As the Maldives is a little known, small and isolated country with not much published literature, the information is provided to acquaint the reader with the background details needed to contextualise my study, especially the discussions in Chapters 5 to 7. It offers a brief overview of the geographical, demographic, cultural and social facets of the Maldives. Information is provided on the economy, governance and the political system as well as the judiciary in order to understand the implications that they have on the Maldives' transitioning to a human rights respecting nation. It also provides information on aspects of peace and security, which has significant bearing on the human rights situation in the Maldives. The information in this chapter is based on literature as well as my own experiences of growing up and working in the country.

The Geography

The Maldives is a chain of coral atolls located in a north to south direction on the Laccadives-Chagos submarine ridge in the Indian Ocean to the south-west of the Indian sub-continent. The Maldives archipelago spans the equator and has a territorial area of about 90,000 square kilometres, with over 90 per cent of it being the sea. There are 26 natural atolls made up of 1,190 islands of which only 200 are inhabited (MPND, 2007a). The land area of the Maldives is 298 square kilometres, with only 33 islands having a land area greater than one square kilometre. Most of the islands are very small and low lying, with none higher than two metres above mean sea level. Over 80 per cent of the land area of these islands is less than a metre above mean sea level, with the average height being just 1.8 metres above sea level. The country has no hills, mountains or rivers. Coconut palm fringed islands, white beaches and

crystal clear lagoons are the distinctive physical features of the Maldives, which makes it one of the most popular tourist destinations in the world.



View from the beach of a typical island showing the low-lying nature Photo by DER

The capital, Malé, is 1.8 square kilometres in size and about half of the island is reclaimed land. Malé is heavily urbanised and the entire island consists of built-up area. The main international airport is located on a separate island, Hulhulé, ten minutes away by boat from Malé.



Aerial photo showing Malé and Hulhulé Photo by DER

Due to its low-lying nature, the Maldives is one of the most vulnerable countries to the impacts of predicted climate change such as sea level rise (MEEW, 2007). The small, low lying coral islands are susceptible to the threat of seasonal storms, high tides and long-term sea level rise. Coastal erosion and flooding constantly threaten human health and security, and the very existence of the islands. These are the most pertinent aspects of the geography of the Maldives that are linked with, or endanger human rights. National predictions and forecasts of climate change indicators show increasing trends of the probability of extreme events occurring more frequently in the future (MEE, 2011). Closely tied to the issues of environmental and climate change is the lack of sustainable and renewable energy resources. Against this background, the implementation of sound environment and energy policies are essential for sustained development in the Maldives.

Recognising this, the Government has always placed environmental issues high on its development agenda. The Maldives has been very vocal on the international front in calling for a unified response to global environmental change. It has been active in drawing the attention of the global community to the human impacts from climate change, resulting in the UN Human Rights Council adopting a resolution on 28 March 2008, which recognises that climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights (United Nations, 2008). On 15 March 2009, the Government announced its intention to make the Maldives the world's first carbon neutral country by the year 2020; and on 17 October 2009, held the world's first underwater cabinet meeting to attract international attention to the dangers of global warming and sea level rise (MEE, 2011).

The People

Although it is not clear when the islands were first settled, it is believed that the Maldives was populated before the 6th century BC (Heyerdahl, 1986). A biological expedition carried out in 1889 by Professor John Stanley Gardiner to determine the ancestral roots of Maldivians suggest that the Maldives

population is a mix of Indian, Sri Lankan, Arab, African, Indonesian and Malaysian (MPND, 2004). The population arrived in small numbers over a long period of time, coming mostly from Sri Lanka and India, some from even farther as survivors of shipwrecks. According to Helvikiva (2002), the first historical records concerning the Maldives come from Sri Lankan, Greek, Indian, Chinese, Arab and European travellers. The most comprehensive of these was by the Moroccan traveller, Ibn Battuta, who stayed in Malé in 1344 and gave detailed information about the Maldives economy and society. Maloney (1980), using linguistic and anthropological material from nearby Lakshadweep (Laccadives) Islands and the coast of Kerala in southern India, traced historical ties to Tamil ethnicity.



Aerial view of the capital, Malé

Photo by F. Rasheed

Census records maintained since 1910 show that the Maldives had a population of around 100,000 in 1965, at the time of the country's independence. Since then, investments in health have resulted in the population being doubled by 1978 and tripled by 2005 (Shaheed & Upton, 2008). The current population of the country is estimated at around 315,000, of which 38 per cent live in the capital island of Malé, making it one of the most densely populated and over-crowded capitals in the world. The rest of the population are scattered amongst the remaining 199 inhabited islands which are widely

dispersed across the archipelago. One-third of the inhabited islands have a population of less than 500, and 70 per cent of the inhabited islands have a population of less than 1,000.

Maldivians born today live almost 20 years longer than those born in the 1980s and the population is increasingly urban (UNFPA, 2011). The country has a very young population. The median age of the population is 21 years and 33.7 per cent are between 18 to 35 years (MPND, 2007b). The number of adolescents and youth has increased substantially in recent years, and is over 40 per cent of the total population. The percentage of 15-24 year old age group peaked in 2004 and now constitutes 25 per cent of the country's population, while the 10-14 year old age group peaked in 2011 (UNFPA, 2011). Today, for every three Maldivians, there is one migrant worker living in the Maldives (UNFPA, 2011).

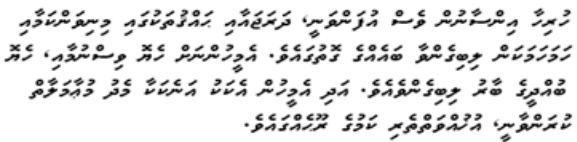
Socio-Cultural Aspects

According to Romero-Fries (1999), the influence of various ancestral roots of the people that settled in the Maldives is evident in some of the current cultural practices, especially those related to ritual and healing. This influence can be seen in some of the cultural practices such as the belief in *fanditha* or witchcraft related to ritual and healing. Romero-Fries (1999) claims that Buddhist tantric components of superstition are still to be found, but the Gayoom Government had done much to discourage those practices reflecting non-Islamic values and cultures. Archaeological evidence suggests that Hinduism and Buddhism and even earlier forms of worship had been practised prior to the Maldives' conversion to Islam during the 12th century (Heyerdahl, 1986). The Maldives adopted Islam in 1153 and for much of its history the country had been isolated from the outside world. The only contacts to other people were through sea-trade, which was also how Islam came to the country. In 1153, the entire nation of Maldives was converted to Islam by a decree of the then King, who became a Sultan. From then, the early rites of the Islam like ablution, prayer times, pilgrimages to Mecca and the recital of Qur'an were followed. But Islamic law and moral codes were not introduced until the 20th century (Helvikivi, 2001).

The Maldives is probably the only country in the world that can claim to be 100 per cent Muslim as, according to the Constitution, one has to be a Muslim to be a citizen of the Maldives. Islam was proclaimed as the official religion of the Maldives in the 1997 and the 2008 Constitutions. While the country had been a Muslim state for centuries, Maldivians prided themselves on the liberal type of Islam they practised. Although alcohol is forbidden and sex outside of marriage is illegal, women were not required to wear a *burqa* (veil) to cover their hair or faces and were allowed to marry men of their choice. This remained true up until the late 1980s and can be largely attributed to its relative isolation from foreign influences before its independence (Maloney, 1980), not long after which the country opened up to foreign aid, tourism and the media. Today, Islam which had been a uniting force in the country earlier has become one of the divisive factors in Maldivian society.

The language of the Maldives, known as Dhivehi, is spoken throughout the country, with dialectical differences in the four southernmost atolls. Dhivehi is spoken only in the Maldives and in the island of Minicoy in India, where it is known as Mahl or Mahal (Maumoon, 2002). It is written in a unique script called *Thaana*, which is written from right to left and contains twenty-four letters, the first nine of which are forms of the Arabic numerals. After the Maldives converted to Islam in 1153, Persian and Arabic made a significant impact on the Dhivehi language. It borrowed extensively from Arabic, especially religious and judicial terms. The middle of the 20th century saw many Maldivians going abroad to study in India, Pakistan and in some Arab countries, and when they returned, they used a lot of Urdu and Arabic words in their writing. Around the 1970s and 1980s the English knowledge of Maldivians increased with the advent of tourism in 1972, and with more Maldivians going abroad to study in Western countries. Schools started teaching in the English medium, and the Dhivehi language began to be greatly influenced by English. During President Gayoom's thirty year rule, attempts were made to bring in more Arabic influence to the language. A number of new Arabic words were introduced into the vocabulary instead of adapting English words that were commonly used by the people educated in the English medium at schools. This had become a

contentious issue between the Gayoom Government and the country's youth, the majority of whom are educated in schools that are based on a Western curriculum.

<p style="text-align: right;">Sample text</p> <p style="text-align: center;">  </p> <p>New Latin Transliteration</p> <p>Hurihaa insaanun ves ufan vanee, dharaja aa-i haquu thakugai minivan kamaa-i hamahamakan libigenvaa ba-eh ge gothuga-eve. Emeehun-nah heyo visnumaa-i, heyo buddheege baaru libigen ve-eve. Adhi emeehun ekaku anakakaa medhu mu-aamalaaay kuranvaanee, ukhuvvaitheri kamuge roohah ga-eve.</p> <p>Translation</p> <p>All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.</p> <p>(Article 1 of the Universal Declaration of Human Rights)</p>

Source: Wikipedia

Traditionally, the Maldives was recognised as a moderate Islamic country. During the Nasir regime, when the Maldives had started opening up to foreign influence, it had been secularist in its outlook, following universalistic global trends (Shaheed & Upton, 2008). Although a few scholars had returned from their studies in Saudi Arabia with fundamentalist Islamic ideology, they were unable to practice their radical types of Islam in the Maldives. During that time, it was common practice for people who had opposing views to the Government, whether it was on politics or religion, to be arrested and jailed. So even though radical Islamic ideology existed, it did not affect the greater community (Waheed, 2009).

The Gayoom Government, however, placed great importance on preserving and promoting religious unity within the country, a concept which was regularly linked to that of national unity. The emphasis on religious identity was central to the political and legal framework of the country, and religious

homogeneity was considered a vital element for guaranteeing national unity. Gayoom consolidated executive and religious authority and became the supreme authority to propagate the tenets of Islam in the Maldives (US Department of State, 2009). Gayoom's aim was to protect and promote his own brand of Islam (Amir, 2011). At the same time, the Gayoom Government would also crack down on religious radicals. From time to time, there have also been reports of foreigners being deported from the country for trying to carry out missionary work in the Maldives. Non-Muslim foreigners, including tourists and foreign workers, were required to practice their beliefs exclusively in private, and are not allowed to encourage locals to participate.

With the increase in religious radicalism, the number of women wearing the *hijab* or *burqa* (including the *niqab*) has increased in recent years, which is considered by many as a sign of growing Islamic extremism (Jahangir, 2007). In fact, this trend can be related to the increasing number of Maldivians who have studied abroad in very strict and extremist Islamic schools or *madhrasas* in Pakistan and Saudi Arabia. These students have, on their return, started spreading Islamic teachings related to pre-Islamic tribal traditions resulting in girls and women being deprived of opportunities for schooling and work outside their homes. These actions, overall, led to limited religious freedom in the country. With the change in Government in November 2008, attempts have been made to provide some leeway on the issue of religious freedom, which is an extremely sensitive and difficult matter in the Maldives. In an attempt to remove religion from politics, the current Nasheed Government has tried to leave it in the hands of Islamic scholars. The sensitivity of the role of religion in the Maldives was seen on 23rd December 2011 when all political parties, except MDP, united to hold a massive rally in Malé as a protest to defend the Islamic faith, accusing the Nasheed Government of trying to introduce religions other than Islam to the country.



23 December 2011 Protests to defend Islamic Faith

Photo by Haveeru

Anecdotal evidence suggests that a small number of Maldivians had converted to religions other than Islam. But most of them were not able to admit openly to their converting because of the potential social and legal ramifications. On these occasions, they have not been formally charged with apostasy, but have been detained and subjected to coercion in order to encourage or force them to reaffirm their faith in Islam (Jahangir, 2007). For example, in May 2009, when a citizen publicly declared his disbelief in Islam at a religious meeting, he was physically attacked, and when he sought police protection he was arrested and released five days later, after he read a declaration of the Muslim faith on national television (Arora, 2010). According to Arora (2010), this man believed that a number of Maldivians were depressed and unhappy that they were forced into silence on their questions of belief in Islam.

In the past, traditional extended family units and close-knit social networks characterised the Maldives society. Communitarian values maximised societal harmony and minimised destitution and crime. Today, the nuclear family is the basic unit of the society. About 80 per cent of Maldivian households consist of a married couple and their children rather than an extended family. Typically, unmarried adults remain with parents instead of living alone or with strangers. Women's status has traditionally been fairly high, as attested to in part by the existence of four Sultanas. Until recently, women did not veil, nor

were they strictly sequestered, but special sections were reserved for women in public places, such as mosques. Women also do not accept their husbands' names after marriage but maintain their maiden names. Inheritance of property is through both males and females. Traditional roles for both men and women encourage soft-spokenness and discouraged aggression. Even small children are discouraged from expressing strong emotions.

The South Asian heritage and Islamic traditions define the gender roles and responsibilities, where men occupy the upper echelons of the social hierarchy and women face subtle and sometimes overt forms of subordination (UNDP, 2011). Due to a culture of protectiveness, in early socialization girls are encouraged to stay home and boys are encouraged to be out-going, forward and self-confident. Although women carry the high domestic burden, decision-making tends to be undertaken by male heads of households. Men also dominate the public and political domains (UNDP, 2011).

Unlike in most of the Maldives' South Asian neighbours, marriages are not considered as a family business, but as an individual choice. Family law prohibits Maldivian women from marrying non-Muslim foreigners, whereas it allows Maldivian men to marry non-Muslim foreigners, as permitted by the Shari'ah (Jahangir, 2007). A woman marries on average four times in her life. Divorces are common because Islam makes divorcing easy for the husband. Often a quarrel could result in divorce, but then the couple may end up getting married again (Helvikiva, 2001). Officially, sexual relations are strictly controlled. Sex is only allowed within marriage, but in practice this is not adhered to. Usually young women end up getting caught and punished due to unwanted pregnancies. The punishment of public flogging for extra-marital sex is meted out according to Islamic Shari'ah, and this cruel and degrading form of punishment is seen as a human rights violation according to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol (OPCAT) which the Maldives has acceded to.

Traditionally the Maldives society was based on a self-sustaining natural economy (Fitzgerald, 1984) and was considered a caste society because of the existence of significant gaps in disparity between the elite living on Malé and the rest of the population living on the other islands (Metz, 1994). Malé was the traditional seat of the Sultans and the nobility, and was an elite society wielding political and economic power. Members of the several traditionally privileged ruling families; government, business, and religious leaders; professionals; and scholars live there. It differs from the other island communities in the Maldives because the majority of its residents are migrants.

The modernisation efforts of the early 1990s, however, have helped to make the Maldives society more homogenous. The Gayoom Government's development policy centred on decreasing the gap between the Malé and the atolls, by raising the standard of living in these areas. Today, the Nasheed Government continues to bring this reality into fruition by investing heavily in developmental projects in the atolls and by increasing the connectivity of the atolls through major transport networks and faster and better communication links. Fortunately, social tensions that might have affected these two distinct societies were lessened by the geographical isolation of the outer islands, which has also proved to be advantageous for the Maldives to limit the impact of tourism to special resorts developed on separate islands (Metz, 1994).

Education

Education in the Maldives has a long history with its roots in a traditional system of schooling that existed for hundreds of years. These traditional schools were known as *edhuruge*, *makthab* or *madhrasa*. They were privately owned or operated by the island communities and were usually self-financing. The *edhuruge* was a gathering of children in a private home where they were taught to read the Qur'an, read and write Dhivehi, and basic numeracy skills, usually by an elderly woman. The *makthab* was more formal, but offered the same curriculum, whereas the *madhrasa* had a more wide-ranging curriculum. These educational establishments contributed towards the high rate of literacy among

the general population and also contributed towards the preservation of national culture and traditions.

The first challenge to this traditional system of education occurred in 1927 with the establishment of *Madhrasathul Saniyyaa*, the first government school in Malé. This school was first limited to the education of boys until 1944 when a section was opened for girls and young women. Instruction in this school covered Dhivehi language, Islam, Arabic and Arithmetic. In the 1940s and early 1950s, under the leadership of President Ameen, the first President of the Maldives, significant educational development took place (UNESCO, 1999). By 1945 each inhabited island had a *makthab* providing instruction at the lower primary level.



An island primary school

Photo by DER

A more dramatic change in the education system occurred in 1960 when the Government introduced two English-medium schools in Malé as a part of a conscious effort to prepare its citizens to meet the increasing development needs of the nation. This was the beginning of a public school system, which was based on the British system in terms of organisation of the curriculum and methods of instruction. This resulted in two distinct forms of education systems existing side by side. The government school system provided free education while the private schools charged fees for their maintenance. With the

introduction of the government schools, the traditional system was relegated to a secondary status, as all parents wanted to send their children to the free government schools. But until the late 1970s, public schooling had been concentrated mainly in Malé. In 1978, a decision was made to move to a unified national system of education and to promote a more equitable distribution of facilities and resources. The new policy was targeted at providing universal primary education for all, and it introduced a unified national curriculum in 1984 (UNESCO, 1999). Investments were made in improving teacher training and in the establishment and upgrading of new schools in the atolls. On each atoll, two government schools (an Atoll Education Centre and an Atoll School) were established.

The secondary school curriculum was designed around the London GCE Ordinary-level and Advanced-level examinations offered by Edexcel. The first secondary school outside of Malé was established in Addu Atoll in 1992. School enrolment continued to increase throughout the 1980s and the 1990s. The Maldives was able to achieve the Millennium Development Goal (MDG) of universal primary education by 2002, without any gender disparity (MPND, 2006b). Additional opportunities for education include two Arabic-medium schools in Malé providing schooling to secondary level, introduced in 1989. Limited vocational and skills training opportunities are also available, mostly in Malé and a few other islands. In 1999, a Maldives College of Higher Education (with its main campus in Malé) was established to provide post-secondary education leading to diplomas and bachelor's degrees. This College has now been converted to the first Maldives National University on 15 February 2011. However, more students who complete secondary education travel overseas for further studies to countries such as Sri Lanka, India, Pakistan, Egypt, Malaysia, Singapore, Saudi Arabia, UK and Australia. Many students have completed undergraduate, postgraduate and doctoral studies at overseas universities. A number of private colleges have recently started providing tertiary education in a limited number of subjects.

The adult literacy rate is over 98 per cent, and although gender disparities are not found in primary school enrolment, more boys than girls completing secondary and tertiary education. This could be explained by the fact that while primary education is available on all islands, secondary education was limited to a few islands, and parents were often unwilling to send their daughters to reside away from them in order to achieve an education. Government expenditure on education remains relatively high and was 8 per cent of GDP in 2006. From the 1960s, subsequent Governments have continued to invest heavily in the development of education in the country. The superior quantity and quality of education in Malé, however, compared with the atolls, is a major economic, social and equity issue.

One of the fundamental issues in providing education in the Maldives is the problem of providing services to a population that is scattered over 200 islands. This increases the cost of providing services and necessary infrastructure. However, the inability to achieve even minimum economies of scale makes the operation of not only small-scale economic activities but also secondary schools, post-secondary institutions and institutions of higher learning uneconomic (UNESCO, 1999). Lack of access to educational services, especially in the atolls, has led to increasing marginalisation of youth, resulting in lack of access to jobs, housing or training. This has contributed to the host of social issues such as drug abuse, and increased rates of crime and violence which is breaking down the social fabric of a unified and homogenous society and introducing alien and negative values (UNESCO, 1999). Increasing religious radicalism is compounding the problem, with a reported number of incidences where girls have been kept at home and refused schooling by some parents, which is an increasing concern for the Nasheed Government (HRCM, 2008).

The new “information age” had also brought with it the growing role of the media as an agent for socialisation. For some students, the school is being marginalised as they gather more and more of their knowledge, attitudes and values from watching television programmes and from other forms of mass media. According to Samath (2010), it appears that the mass media is

influencing the mind and character of the child, especially with regard to Islamic extremism. Recognising this, the Government has introduced IT-structured learning facilities in the country in 2010.

Health

Ever since the Maldives developed its first Country Health Plan in 1981, health has been seen as a basic right of every citizen. The current health policy is guided by the commitment to the goal *Health for All in the 21st Century*, and the goals set by the World Summit on Children, the Earth Summit, the International Conference on Population and Development, the Social Summit, the International Conference on Women and Development, and the Millennium Summit with its Millennium Development Goals (MDGs). A primary health care approach has been used to deliver health services in the country (WHO, 2006). Government health policies have been targeted to ensure access to primary health care to all citizens in an equitable manner, without discrimination on account of the person's gender or socio-economic status (MPND, 2007b). In order to ensure that health care is affordable to all, a social welfare scheme for the elderly and the disabled and a health insurance scheme was introduced in 2008.

Major communicable disease such as malaria and vaccine preventable childhood diseases have been eliminated, and leprosy and filaria have reached zero transmission stage. Tuberculosis and HIV prevalence remain low, but increasing drug use and high risk behaviours make HIV/AIDS a potentially threatening problem. Mortality due to diarrhoea and acute respiratory infections (ARI) are extremely low even though morbidity continues to cause significant problems (MPND, 2007b). Diarrhoeal diseases continue to be a problem in islands where there is no adequate water and sanitation services. The incidence of ARI continues to be high in Malé as compared to the atolls due to the congested urban living conditions as well as environmental factors such as pollution from increased construction activity. Sporadic outbreaks of dengue occur every now and then (WHO, 2006). Non-communicable diseases, on the other hand, particularly lifestyle related diseases pose a major challenge for the

health services. Among non-communicable diseases, the genetic blood disorder, thalassaemia has one of the highest incidences. Nutritional disorders are also common, with malnutrition reported in children below 5 years of age (WHO, 2006).

In terms of service delivery, by the end of 2001, government health services in the country were reorganised from a four-tier to a five-tier system. The health service delivery system now comprises the central level (with the Indira Gandhi Memorial Hospital (IGMH) in Malé), regional level (with regional hospitals), atoll level (with atoll hospitals), sub-atoll level (with atoll health centres) and island level (with island health posts and family health sections). These five tiers of the health system are structured into a referral system, with the hierarchy ascending from the family health workers at the island level to specialist medical practitioners at IGMH (WHO, 2006). In Malé and in some of the larger population centres such as Addu Atoll, private hospitals and clinics operate, in addition to the government facilities.

The Nasheed Government's intentions to corporatise the health care system have been met with grave concern by the Human Rights Commission of the Maldives (HRCM), as access to affordable health care by the poor could be compromised (HRCM, 2010). However, with the introduction by the Nasheed Government of social security benefits for vulnerable segments of the population, including the elderly, the disabled and single mothers, as well as the introduction of a health insurance scheme for all in 2011, these fears have been allayed.

Availability of skilled health professionals continues to be a problem in the Maldives. These gaps are filled by recruiting expatriates. Access to medicines is another major concern as pharmaceutical services operate on a fully corporate basis by the private sector. The major problem and key issue in the health sector, as in the education sector, is the structural problems faced due to the provision of services to small and scattered populations throughout the country. Compounding these issues are the relatively high population growth

rates and increasing life expectancy rates. These factors together with the shortage of skilled health personnel provide major constraints to the sustainable development of the sector.



The Indira Gandhi Memorial Hospital in Malé

Photo by zero point zero

Substance abuse has become an increasing problem in the Maldives since its introduction in the 1970s. Though there were stories of opium abuse in the early part of this century, this was by and large, limited to a few. The appearance of drug abuse in the present form coincided with the development of tourism in the country in the early seventies (FASHAN, 2003). Being a 100 per cent Muslim country, the lack of facilities that sell alcohol on inhabited islands, makes alcohol abuse low. However, it is believed that the incidence of drug abuse increased forty-fold between 1977 and 1995 and a very high percentage of drug users are between the ages of 15 and 25 years (NNCB, 2008). Commonly abused drugs are hashish and heroin (brown sugar), but anecdotal evidence suggests that cocaine and ecstasy are also being used. Cases of drug use have been reported by those as young as 7 and 9 years of age (UNICEF, 2007). Increasing drug use has been blamed on increased youth unemployment, lack of healthy recreational facilities and growing inequalities between the rich and the poor (NNCB, 2008). More than 90 per cent of the prison population are drug offenders and the majority of those prisoners are youth (HRCM, 2010).

Existing drug laws do not allow for differentiation in penalties for drug use, possession and trade. Lack of treatment facilities for rehabilitation and detoxification as well as lack of halfway houses and opportunities for employment of recovering addicts greatly hampers their recovery.

Housing

From traditional times, housing has remained an individual concern in the Maldives, even though the state owned almost all land in the country. It was not until May 2008 that the Government published the first ever written or formally acknowledged housing policy. Prior to that, plots of land were either allocated or inherited by individuals who built housing when and how they could afford it (MHUD, 2008). This concept of receiving a plot of land and dividing it amongst new generations has resulted in families inheriting progressively smaller plots of land and houses (Rolnik, 2009). Although this method was not based on social class and wealth, it is no longer viable given that access to land has become scarce. In some instances, being allotted a piece of land could mean that land has to be reclaimed from the sea. New trends such as high rates of population growth and increasing migration, combined with limited available land for construction, has increased pressure on housing. Today, the issue of scarcity of land is not only related to land *per se*, but to developed or urbanised land, meaning land serviced by basic infrastructure and social services such as harbours, electricity, schools and health facilities.

The 2006 Census estimates that the average number of individuals per bedroom in Malé was 3.1. At the national level, there were 12,000 families that did not have their own housing. However, only few of them were technically homeless in the sense of having to sleep on the streets. Most of them live in extremely overcrowded conditions and in temporary makeshift living space (HRCM, 2008). In addition to overcrowding and congestion, housing issues have wider implications for a host of other social problems such as health, lack of privacy and space, criminality and drug use, domestic violence and even unemployment (Rolnik, 2009). Problems in housing availability and access have also been compounded with growing problems of housing affordability as well

because of the high rents and the increasing costs of building materials. In Malé and islands surrounding it, people spend over 85 per cent of their income on rent (HRCM, 2008).

The 2004 Tsunami highlighted the Maldives' vulnerability to natural disasters and brought the issue of adequate housing to the forefront of political debates. The Tsunami significantly damaged 39 islands and 14 islands were completely devastated and evacuated. It displaced 12,000 individuals from their islands and another 8,500 were temporarily relocated on their own islands (Rolnik, 2009), adding to the burden of inadequate housing in the country. It also highlighted problems of inappropriate housing design, when international assistance in rebuilding provided houses that, even though they were of a good quality, did not meet the needs of the local populations, who were not consulted on the design prior to construction. For example, in traditional homes in the atolls an outside kitchen is used to cook fish for drying. In some of the newly built houses, the kitchen was located inside making it inconvenient for people who relied on cooking fish for their livelihood.



Housing reconstruction after the tsunami in Dh. Kudahuvadho

Photo by DER

Another side-effect of the post-tsunami reconstruction was the increase in the cost of building materials because this process competed with a construction boom in the country which resulted in competition for scarce,

imported resources, resulting in increases in prices by suppliers and construction companies (Rolnik, 2009). Relocation of communities affected by the tsunami to different islands has met with a number of problems. Where communities have been moved to inhabited islands, it has led to conflict and rivalry between local inhabitants on those islands as the new communities have been provided with expensive and high-quality new housing. Land reclamation for providing additional housing has also had negative impacts on the reefs and other natural features of the islands resulting in reducing their natural resilience and increasing their vulnerabilities to natural disasters (Rolnik, 2009). The Government policy of costly land reclamation projects also raises the question of whether the state has made maximum use of its available resources to address the issue of adequate housing in the Maldives.

A further issue of importance with regard to the right to adequate housing is that of the housing condition for migrant workers. More than 80,000 migrant workers and an additional 25,000 illegal migrant workers are believed to be working in the Maldives. Most of these workers live in extremely crowded situations, with reports suggesting some thirty men sharing a three metre by three metre room without running water or sanitation facilities, and often having to sleep in shifts (HRCM, 2008).

The Economy

Traditionally the Maldives economy was based almost exclusively on fisheries. Like several other small island nations, the Maldives is also constrained by the absence of land based mineral resources, the limited scope for agriculture and vulnerability to natural disasters and environmental hazards (MMA, 2012). Today, the economy of the Maldives is heavily based on tourism and fisheries with the tourism sector accounting for about 30 per cent of GDP, while fisheries accounts for 3 per cent of GDP (World Bank, 2010). The economic growth rate for the Maldives between 1987 and 2006 was 7.5 per cent per annum, which was one of the fastest economic growth rates in the world (MPND, 2007b). With a GDP of US\$ 2,674 per capita, the Maldives had the highest real GDP per capita in South Asia in 2006 and was almost 20 per cent

above the average of all developing countries. The favourable figures in terms of the Gross Domestic Product (GDP) prompted the Maldives to be graduated from the Least Developed Country (LDC) status to Middle Income Country (MIC) status in 2011. However, given the narrow economic base and the heavy dependence on imports, the Maldives remains particularly vulnerable to external shocks, a fact which was made painfully aware by the 2004 Tsunami, which caused damage worth 62 per cent of the GDP (World Bank, 2010).

Since economic growth in the Maldives is powered mainly by tourism and its spinoffs in the transportation, communication, and construction sector, the 2008 Global Financial Crisis impacted the Maldives economy when the country experienced less than global average declines in tourist arrivals. More than 900,000 tourists visit the Maldives annually (US State Department, 2012). However, since the second half of 2009, there had been a steady rebound in the tourism sector when tourist arrivals increased, with more tourists now arriving from fast-growing emerging countries like China and India, rather than from the traditional markets such as UK, Italy, Germany and Japan (World Bank, 2010).



A view of the beach from a room in a resort island

Photo by Sun News Services

In the fisheries sector, which consists mostly of tuna fishing, catch levels have declined continuously since 2006, and are believed to be related to changing ocean currents and rising fuel prices, and global development of the

fishing industry in nearby waters (World Bank, 2010). As a result, earnings from fish exports declined, despite higher tuna prices in the international market.



Fishing in the Maldives

Photo by DER

Since imports amount to over 90 per cent of GDP, with food and fuel products making up 60 per cent, the recent rise in international food and fuel prices has affected the current account deficit and put pressure on the foreign exchange reserves. External debt is estimated at 60 per cent of Gross National Income (GNI) and the inflation rate rose to 8.2 per cent in 2009 (World Bank, 2010). During the Nasheed Government, the monetary policy has been made more conducive to sustaining domestic and external stability with the introduction of non-monetary deficit financing. Fiscal consolidation and establishment of macro stability remains the largest challenge for the Government, especially given the turbulent political environment. The Nasheed Government's efforts to reduce the civil service wage bill were met with opposition from the parliament, and a number of proposed new tax bills were held up as well.

While the overall incidence of poverty in the country is low, as in education, there is great regional disparity between Malé and the outer atolls and within atolls. Poverty issues in the Maldives are often related to hardship or remoteness of the islands and lack of services in the atolls (MOFT, 2010). As

such, poverty reduction strategies in the Maldivian context are focussed on reducing the disparities in living conditions that exist amongst the population. Personal incomes are significantly higher in Malé than in the atolls and economic and social infrastructures including ports, roads, schools, hospitals, water and sanitation systems, have been developed largely in Malé, rather than in the atolls (ADB, 2002).

There are limited employment opportunities and income generating activities in the atolls. In Malé and nearby islands, wide ranging economic and commercial activities including manufacturing, construction, and tourism provide various job opportunities, while fisheries is virtually the sole income-generating activity in the atolls. Communities in the atolls are vulnerable to changes in fish prices both in the local and international markets and also to weather conditions. These disparities have led to increasing in-migration to Malé from the atolls which, in turn, reduce the development prospects for the atolls and worsen the living condition in Malé, intensifying urban poverty.

Unemployment is currently estimated at 14.4 per cent of the labour force (World Bank, 2010). Unemployment is significantly higher in the atolls and among the youth. According to World Bank (2007), employment opportunities are much lower for young women than young men and this is attributable to cultural attitudes and the restricted mobility of women in the atolls, as well as to increasing income and education levels which raise expectations among youth for professional remunerative jobs. The World Bank further suggests that difficulties in access to gainful employment increase the incidence of drug use, pessimism and delinquency (World Bank, 2007).

Another aspect of employment in the country is the heavy reliance on migrant workers. Unlike the rest of its South Asian neighbours, the Maldives has been following a liberal labour policy. Cheap labour from Bangladesh, Sri Lanka, India and Nepal has flooded the local market because there is no statutory minimum wage in the country. It is estimated that more than 20 per cent of the labour force is expatriate labour, 79 per cent of whom are unskilled or semi-

skilled (ADB, 2002). Dependence on expatriate labour has increased with the growth and expansion of business activities, and is now no longer restricted to the tourism industry (World Bank, 2007). This has resulted in the dual consequences of much of the money paid to foreign workers being repatriated out of the country, while at the same time, excluding local workers from being employed (ADB, 2002).



Migrant workers attending Eid prayers in Malé

Photo by M. Inaz

Governance and Administration

The Maldives gained full independence in 1965 and became a member of the UN the same year. Prior to gaining independence, the Maldives had been a Sultanate, although the Sultan was subject to a written Constitution since 1932. During the 1950s, the Maldives had tried its hand at establishing a Republic with a President as its Head of State. However, the new Government was violently overthrown and lasted seven short months. Three years after independence, in 1968, the Maldives became a Republic for the second time and continues to remain one today.



(left to right in the photo are President Ameen, Vice President (my grandfather), and Chief Justice)
Swearing in ceremony of the first President of the first Republic *Photo by K. Haleem*

According to written history, from the time the Maldives converted to Islam in 1153 up to 1968 when the Maldives became a Republic, it had been a Sultanate, with a Sultan or Sultana and his or her various advisers and ministers governing the country. Currently the country is governed by a President who is the Chief Executive. The President then appoints a cabinet of ministers who assist him in governing the country. Previously, the atolls and island were administered by Atoll and Island Chiefs who received instructions from the President through the Minister of Atolls Administration.

For administrative purposes the country is divided into 20 atolls and the capital, Malé. A three-tiered governance structure has been established with sector ministries at the national level, Province Offices and Atoll Offices at the regional level and Island Offices at the island level, with decentralised functions under elected councils (PO & MoHA, 2009). However, under the current 2008 Constitution and with the Government of President Nasheed, attempts were made to decentralise governance. As part of Nasheed Government's policies, more power is being decentralised to the local communities, giving individuals more say in how their islands are run. The function of local government has been devolved to an Atoll Council to administer each atoll and an Island Council to administer each inhabited island. Island Councillors are elected by the people

of each island, and the Atoll Councillors are in turn elected by the Island Councillors.

The three branches of government include the Executive (the President, Vice-President, Ministers, other political appointees and the civil service); the Legislature (the Parliament or Peoples' Majlis); and the Judiciary (the Supreme Court, High Court and the lower courts). All three branches have their headquarters in the capital, Malé. The past few years have seen remarkable and swift changes in the political landscape of the Maldives. Political parties were introduced for the first time in 2005. Since then, fourteen political parties have been registered and are in operation today.

A new Constitution embodying democratic principles was ratified in 2008 followed by the country's first ever multi-party elections. A two-year transitional period between the ratification of the new Constitution and its full implementation, ended on 7 August 2010. Today, with the new Government in place, the Maldives is moving towards a liberal democracy. The democratic reform process has resulted in reduction in the powers of the executive, and a strengthened role for the parliament. A number of new independent institutions have also been set up. While the Maldives has undergone a successful transition to multi-party democracy, a number of challenges still remain to be overcome to sustain the fledgling democracy. Strengthening the newly formed independent institutions, decentralising authority, establishing a culture of human rights, professionalising the civil service, ensuring equity, and establishing and promoting good governance and the rule of law, remain key challenges.

The 2008 Constitution also contains a Bill of Rights designed to protect the rights and liberties of everyone in the Maldives. It guarantees civil and political rights and fundamental freedoms including the rights to life, non-discrimination, fair and public trials; protection from arbitrary detention; right to bail; freedom from forced confession; right to legal aid; prohibition of torture or degrading treatment; right to appeal; access to compensation for unlawful arrest or detention; right to vote (voting age reduced to 18 from 21) and to hold

public office; freedom of opinion and expression; right to privacy; right to information; freedom of association; freedom of assembly; freedom of movement; and provision of special protection to vulnerable groups, including children, adolescents, elders, and people with special needs.

Economic, social and cultural rights and fundamental freedoms introduced or strengthened under the 2008 Constitution include the right to adequate, nutritious food and clean water; the right to adequate housing; the right to a good standard of health; adequate access to sewerage and electricity; the right to marriage and family; the right to education; the right to work; the right to strike; the right to enjoy a pension; the right to take part in cultural life; and the right to enjoy property. It also introduces the right to live in a safe and ecologically balanced environment. This new right is considered particularly important in the Maldives, a country that is acutely vulnerable to the negative consequences of global climate change and which is also heavily dependent, economically and socially, on its natural environment.

After the adoption of the 2008 Constitution, the Maldives held its first free and fair multi-party presidential elections in October 2008. While the MDP had won the presidential election, the opposition DRP and its coalition, the People's Alliance headed by Gayoom's half-brother, won 35 seats compared to MDP's 26 seats in the parliamentary elections of 9 May 2009. This gave the opposition a majority in the current unicameral parliament (Majlis) which is composed of 77 members serving five-year terms. The outcome of an opposition majority has resulted in political tensions making it extremely difficult for President Nasheed to fulfil his election promises. Political wrangling has resulted in no-confidence motions being taken by the opposition against the Foreign Minister in November 2009, and against the Education Minister in June 2010. It also resulted in the dismissal of the Auditor General in March 2010, for investigating high-profile members of the former regime for alleged embezzlement of millions of US dollars in state funds (Naseem, 2011). Since the opposition majority was calling no-confidence motions against cabinet ministers and heads of independent institutions, making it impossible for them

to discharge their constitutional duties, the entire cabinet resigned *en masse* on 29 June 2010 as a protest against what they called the opposition members of parliament's "hijacking" of the powers of the executive (ADB, 2010).



Police breaking up an MDP peaceful rally

Photo by Minivan News

Shortly after the cabinet resignation, the police arrested several opposition party members of parliament, and on 8 July 2010 they arrested the Deputy Speaker of Parliament on charges of corruption and assault to intimidate members of parliament (ADB, 2010). After talks between the President and the major opposition parties, the President reappointed all thirteen ministers of the cabinet, but their reappointment required the consent of the parliament. Only five of them were approved. Subsequently President had to appoint new ministers in place of the ministers that were rejected by the parliament.

The parliament continue to be plagued with boycotts, partisan spats and disputes, while important legislation vital for the proper functioning of a democracy, such as the penal code, evidence bill and a number of taxation and economic reform bills, are put on the backburner or ignored. Naseem (2011) suggests that on the rare occasion when the members manage to focus on the business of legislation, it is more often than not to pass laws that are blatantly self-indulgent, such as the Members' Privileges Bill. According to Naseem

(2011), ample evidence has emerged during the period of the new Nasheed Government that other currencies of power, deeply embedded in socio-cultural norms formed over centuries of varying types of authoritarian governance, are still very much in circulation in the country. These power relations are exercised through informal networks based on political favours, connections between friends, family and a clique of elite individuals and groups, in perpetual tension with the official institutions of democracy. According to her, in the Maldives, they have created an atmosphere that discourages popular participation, makes a mockery of the rule of law, renders problematic the delivery of public services, discourages both domestic and foreign investment, and is highly conducive to corruption, rent-seeking and other forms of abuse (Naseem, 2011). Unfortunately, the current political climate in the Maldives provides little reason to believe that democracy can be sustained.

The Judiciary

The justice system in the Maldives is based on a combination of codified modern law and Islamic Shari'ah, with written law taking precedence. The Maldives Penal Code was prepared in 1962 and statutory law is absent in many areas. There is no established doctrine of precedence or other common law tradition. No burden of proof is required for a court conviction and there is no system of jury trials (ICJ, 2005). During the years prior to the adoption of the new Constitution, there was no separation of the Judiciary from the Executive. At that time, the President was the head of the judiciary with powers to grant pardons and amnesties, and to appoint and dismiss judges on his own whim. The judiciary is also hampered by a lack of competent lawyers and judges. Furthermore, there is a lack of proportionality between crime and punishment, the primary reasons for which being politically motivated trials and lack of proper knowledge and training among the judges on English common law and Islamic Shari'ah (ACHR, 2007). Since the judiciary operated as a branch of the executive and the judges were bound by the executive's interpretation of the law, there was no independence of the judiciary.

In 1997, reforms brought four categories of law into the court system: civil, criminal, family, and juvenile law. The courts of first instance based in each inhabited island, and the Civil, Criminal, Family and Juvenile courts in the capital were organised under the Ministry of Justice. The High Court was the court of last resort and the highest court in the country and was organised under the President's Office. The High Court was presided over by the Chief Justice who was appointed and dismissed by the President. It handled appeals from the courts of first instance as well as politically sensitive cases which were prosecuted by the Attorney General's Office. However, there was also a right of appeal to the President if the litigants were dissatisfied with the decision of the High Court (World Bank, 2007).



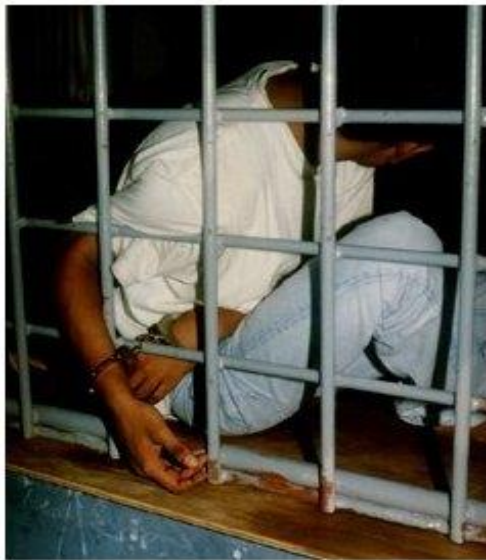
Previously residence of President Gayoom, now the Supreme Court Photo by Dhivehi Observer

The new 2008 Constitution called for an independent judiciary. It also called for the establishment of a Supreme Court. The Supreme Court bench consists of five judges including the Chief Justice. The Chief Justice is appointed by the President, with the recommendation of a Judicial Services Commission, established since November 2005. The role of the Judicial Services Commission was to oversee appointment and dismissal of judges and to act as a “watchdog” in upholding a judicial code of conduct (ICJ, 2011). Parliament is required to approve the appointment of judges to the high court bench before office is assumed. An Attorney General as part of the Cabinet also needs the approval of

parliament before taking office. With the ratification of the new Constitution, an independent Prosecutor General's Office was established separate from the Attorney General's Office. The 2008 Constitution bans arbitrary arrest, torture, and prolonged detention without adequate judicial review. It also requires compensation for those detained without legal justification.

With increasing international pressure, the Gayoom Government had amended some of the most criticised aspects of court proceedings through a presidential decree in May 2004. This included the abolition of the requirement for judges to obtain permission from the Ministry of Justice before pronouncing an acquittal, and the abolition of punitive measures for departing at trial from a confession made during interrogation (ICJ, 2005). In September 2004, the Maldives Police Service was created under the Home Ministry, separating it from its former paramilitary role under the National Security Services and on 10 December 2004, the national Human Rights Commission was established as an independent statutory body.

The current Nasheed Government has initiated police reform, and established a parole board to recommend sentence reductions for unjustly detained inmates. However, according to Freedom House (2011) progress on improving prison conditions has been slow, and abuses continue. At the time of writing, revisions to the Penal Code and other important criminal reform legislation bills, including the Criminal Procedure Code, Evidence Act, the Juvenile Justice Act and the Drug Act, remain under debate in the parliament, delayed due to lack of partisan support. Since an independent judiciary also functions within a broader justice system that includes the Attorney General, the Prosecutor General, the Home Ministry, Police, and other institutions, it is important that there is clarity in the respective roles of each of these institutions as well as between them. According to ICJ (2011), significant confusion about the scope of powers and the relationships exist not only among the branches of government but also within each branch. This confusion creates conditions for disputes, political interference, and delay and paralysis in developing and implementing urgent policy.



Torture in jail



Photo by Haveeru News

The Maldives has ratified or acceded to a number of human rights treaties in recent years. However, incorporating many of the provisions contained in these treaties into domestic laws is still pending. As Cox (2011) suggests, a reliable and operating criminal justice delivery system is needed to sustain democracy and the rule of law, strengthen new democratic institutions, and protect security, economic development and foreign investment based on the foundations of justice and human rights. Ability to know and claim rights and having access to remedy for grievances is still weak. Institutional capacities to better address the needs of people, such as the poor and the disadvantaged have to be strengthened. Capacities of both duty bearers and rights holders need to be improved. Within the framework of the on-going democratic reform process in the Maldives, it is essential to create a foundation for applying a human rights-based approach to the justice sector.

Peace and Security

Securing its territorial borders and maritime interests has been a daunting task for the Maldives because of the geographic spread of the 1,190 islands over a vast expanse of the India Ocean. The majority of these islands are very small and uninhabited and even most of the inhabited islands are sparsely

populated. The growing problem of Somali pirates operating in the Indian Ocean and sometimes intruding into the national waters of the Maldives has become a significant concern for the country in the last few years. Prior to this there have been few outside threats to the territorial integrity of the country since its independence in 1965.

During Gayoom's presidency, two *coup d'état* attempts were made in 1980 and 1983 to bring down his Government. A third attempt on 3 November 1988 was a more serious threat, which involved the Sri Lankan militant group, the People's Liberation Organisation of Tamil Eelam (PLOTE), an offshoot of the Sri Lankan terrorist organisation, the Liberation Tigers of Tamil Eelam (LTTE). Instigated by a local businessman, about 80 armed mercenaries landed in Malé and attempted to take over the Government. They were successful in taking over a number of government buildings, but were not able to capture President Gayoom. At Gayoom's request, a speedy military intervention by the Indian Government helped to overcome the crisis. Indian troops brought the situation under control, and with Indian Navy assistance helped capture the mercenaries as they were fleeing aboard a hijacked freighter.

The other more significant threat to the peace and security of the Maldives comes from religious extremism. Being a 100 per cent Muslim country, the events and developments in the immediate vicinity of the country particularly among its South Asian neighbours has a profound impact on certain segments of the Maldivian population. Although religious radicalism is not new to the Maldives with one or two people subscribing to extremist ideology being detained during the 1970s, Gayoom's use of Islam as part of the Maldives' national identity has enabled these pockets of extremist ideology to exist and flourish in the country (Waheed, 2009).

Although Gayoom recognised the need to address extremism, his push towards making Islam an integral part of Maldivian society led to the development of a neo-Salafi ideology in the early 1990s. This ideology rejects violence and is based on what Waheed (2009) identifies as a "Wahhabi Myth"

that promoted a Saudi-based Islam, which called for a return to the principles, practices and the way of life represented in the Arabian Gulf during the time of the Prophet. In the meantime, a number of violent terrorist organisations like Lashkar-e-Taiba were preying on Maldivian students in various institutions and *madhrasas* in Pakistan through offers of free religious education. These groups called for violent jihad and were highly organised, well-funded and extremely capable.

In the aftermath of the 2004 Tsunami, these two groups joined forces, creating leaflets and audio tapes supporting their radical ideology. They then sent delegations to all inhabited islands throughout the country and designated members of their group to stay and promote their views. They spread fear, hate and violence and chastised the population, telling islanders that the tsunami was the wrath of God, and they were responsible for it. The extent of their activities and hatred were not really felt until 29 September 2007, when a homemade bomb exploded in the Sultan Park in Malé. The bomb caused panic and injured 12 tourists (Niyaz, 2010). Gayoom was quick to blame it on pro-democratic activists, but this was the first time that the global phenomenon of “tourist terrorism” was felt in the country. Tourism is the main economic activity in the Maldives, and until that day the Maldives had been regarded as a safe destination with a clean track record (Niyaz, 2010). The Maldives has ratified eight of the twelve global conventions on terrorism. In addition, the Maldives has also ratified the SAARC Regional Convention on Suppression of Terrorism and the Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism.

A further threat to the very survival of the Maldives as a sovereign nation is the threat of climate change and sea level rise from global warming. Due to the low-lying nature of the islands, the country is extremely vulnerable to tidal surges and beach erosion. Eighty per cent of the land area is less than one metre above mean sea level and 47 per cent of houses are less than 100 metres from the coastline. Since April 1987, adverse weather phenomena have resulted in a combination of high tides and storm surges being experienced throughout the

country especially during the rainy south-west monsoon season. According to data collected by the Ministry of Home Affairs and Housing, over 50 per cent of inhabited islands and over 45 per cent of tourist resorts have suffered various degrees of coastal erosion (MHAHE, 2002). A mean sea level rise of one metre, would risk the Maldives being completely submerged because of its low lying nature. Therefore, the very survival of the entire population of the Maldives is at stake.



Island erosion in Sh. Komandoo due to adverse weather phenomena

Photo by DER

In November 2008, just after Mohamed Nasheed was elected as President of the Maldives, he proposed that the Maldives would begin to divert a portion of the country's billion-dollar annual tourist revenue into buying a new homeland in another country - as an insurance policy against climate change that threatens to turn the 315,000 islanders into environmental refugees (Ramesh, 2008). More recently, during the screening of the documentary movie, "The Island President" at the Toronto International Film Festival in Canada, President Nasheed said that, "the most important right is the right to survival" (D'Arcy, 2011). In the case of the Maldives and other low-lying island states, the issue of climate change is not merely an environmental issue, but also a human rights and a security issue as rising sea levels and submerging of islands could threaten the right to life for these peoples.

Conclusion

The country background provided above sets the scene for contextualising the findings which follow. It explains a number of aspects that have an influence on the factors that affect the development of a human rights respecting culture in the Maldives. The sea-locked geography and the low-lying nature of the islands play an important role in determining the identity of the 315,000 people dispersed over 200 islands. The relative isolation of the country and the lack of colonial influence have meant that the country has its own customs and traditions.

The Maldivian society traditionally cherished communitarian values which maximised societal harmony and minimalised destitution and crime. However, rapid urbanisation and the breakdown in family units have upset traditional social values. Combined with a growing drug problem, unrest and disquiet that lay beneath the surface in the late 1990s has been boiling over in the last few years. Lack of adequate housing, high unemployment rates and the absence of a proper social safety net, combined with widening inequalities has intensified social tensions.

Traditionally fisheries were the mainstay of the economy, but today tourism has become the largest contributor to the country's GDP. In 1971, when the UN drew up the list of Least Developed Countries, the Maldives was included as one of the poorest 25 countries in the world. Today, the Maldives has graduated from that list as result of its developmental success. However, as striking as the growth in per capita income over the past 30 years is the growing inequality in the distribution of wealth not only between the capital and the atolls, but also between different segments of the population. This creates much disaffection and disharmony in the society.

English-medium education was introduced in the 1960s and even though there were no universities in the country until 2011, impressive strides have been made in the field of education, with 98 per cent literacy rates and a large

pool of university graduates by the end of the 20th century trained abroad largely through scholarships from foreign donors. Tremendous progress was achieved in life expectancy and mortality rates from the late 1970s till today.

Although the Maldives converted to Islam in 1153, the country had always followed moderate traditions of Islam until the last few decades. The strict Shari'ah code has never been implemented in the country, and until recently women did not generally wear the *hijab*. Today, Islamist extremism is gaining ground and their impact was felt during the Sultan Park bombings in Male' in 2007. While the country had a tradition of an independent judiciary, they were never based on any religious grounds. From 1967, the administration of justice had become an executive function until the current Constitution was adopted in 2008 which called for the separation of powers between the executive and the judiciary.

After the September 2003 incident of Evan Naseem's death, mounting international as well as domestic pressure forced the Gayoom Government to introduce a number of reforms. These reforms reflected a new mind-set contrary to earlier reservations about universality of human rights norms, distrust of the international media, non-cooperation with international human rights organisations, and aversion to engaging with the international community. For thirty years, Gayoom had dominated the political scene, and in keeping himself in power, had greatly disregarded the Maldivian people's basic rights. With the coming into power of the first democratically elected Nasheed Government in 2008, a number of changes are envisioned for the country. However, thirty years of autocratic rule and resistance to change are some of the challenges faced by the current Government.

3

DISCOURSE ON HUMAN RIGHTS

Introduction

One of the most important developments occurring in the world today is the concern over the observance of human rights. This chapter reviews the literature on human rights discourse. Today, with the dramatic changes that are taking place due to rapid communications and continual movement of goods, ideas, messages and persons across international borders, what happens in one country has significant implications for other countries. It is, therefore, inevitable that in the 21st century even small states like the Maldives cannot escape from this global community and global concerns of the 21st century.

In this chapter, beginning with the concept of the term “human rights”, I examine the historical evolution of human rights as an international norm by describing the development of the International Bill of Human Rights by world leaders at the United Nations. Then, I present how human rights can be classified into different generations of rights, which provides a context for the analysis of my findings. Following that, I discuss briefly the controversies surrounding human rights, especially the ideological debates on universalism and cultural relativism, focussing particularly on the “Asian values” debate and the debate on Islam and human rights as these are important in understanding human rights in the Maldives. In this chapter, I also explore how international human rights are domesticated at the country level through the use of the five-phase spiral model and how this applies to the Maldives situation. I conclude the chapter by identifying some of the gaps in the literature and relating them to the significance of this study.

The Concept of Human Rights

In academic circles, the study of human rights as a separate discipline is a fairly recent phenomenon. O'Byrne (2003) and Freeman (2002) suggest that the discipline of human rights today occupies its own space located broadly within the social sciences. In the past, studies in human rights have largely been dominated by legal scholars and neglected by the social sciences resulting in a distortion of the concept of human rights (Coomans et al, 2009; Freeman, 2002; Gomez, 1995). According to Fiske and Briskman (2008) there are six core aspects for conceptualising human rights. These include philosophical, political, historical, anthropological, legal and practical approaches. Fiske and Briskman (2008) argue that human rights education should not emphasise one aspect over the other, and that it is important to think holistically about human rights. Human rights, therefore, is more accurately considered an interdisciplinary concept. This study uses an interdisciplinary approach to look at the human rights situation in the Maldives.

Research devoted to the study of human rights has increased since the 1980s (Callaway & Harrelson-Stephens, 2007). Past dominance of lawyers in the study of human rights can, according to Freeman (2002), be explained by the fact that the concept of human rights has been developed to a large extent through national and international law. The law is often seen as the primary mechanism for safeguarding human rights and for preventing human rights abuses (Ife, 2001). To the ordinary person, the concept of human rights becomes relevant when the relative security of their everyday life is absent or threatened. As Freeman (2003: 3) suggests, "human rights are most needed when they are most violated".

Even though the use of the term "human rights" is relatively new, human rights concepts and issues have been around for many centuries, and the ideas that underpin it can be traced as far back as the classical philosophers and to most ancient religions and cultural traditions (Hayden, 2001; Orend, 2002; O'Byrne, 2003; Ife, 2008; Ishay, 2008). The use of the term came into common practice in the 20th century with the adoption of the Charter of the United

Nations in San Francisco in 1945. This was the beginning of the modern international human rights revolution which has resulted in a worldwide movement in which states, intergovernmental and non-governmental organisations continually struggle with regard to the role that the international community should play in promoting and protecting human rights (Buerghenthal, 2000). Since the Second World War, the issue of human rights has been frequently discussed in international discourse, among world leaders, and in the international media, as many states and other actors continue to violate a wide range of rights. In the 21st century, human rights remain a topic of global significance.

Defining the term “human rights” is not an easy task because we do not all conceive of human rights in the same way. Based on an analysis of academic literature, Dembour (2010) suggests that there are four schools of thought on human rights. The four schools include natural, deliberative, protest and discourse scholars. According to Dembour (2010), natural scholars define human rights as those rights one possesses simply by being human, thereby conceiving them as “given”. She suggests that deliberative scholars regard them as “agreed upon”, defining them as political values that liberal societies choose to adopt (Dembour, 2010). On the other hand, Dembour (2010) suggests that for protest scholars, human rights are mostly concerned with redressing injustices, and they perceive human rights as “fought for”. In the meantime, for discourse scholars, human rights exist only because people talk about them, and are, therefore, seen as something to be “talked about” (Dembour, 2010). These four schools approach various issues such as human rights law, the foundation of human rights, their concrete realisation, what it means to say they are universal, and whether one can or should believe in them, differently (Dembour, 2010: 4). The four schools potentially cover the whole conceptual field of human rights and act as “ideal-types”, but Dembour (2010) suggests that there could be scholars who do not fit neatly into any one of these categories. Based on a systematic comparison of the schools on how they approach various issues, this research assumes that human rights need to be fought for as I believe in the potential of human rights law and that conditions of effective human rights

protection have yet to be realised in the Maldives. In that sense, this study can, therefore, be broadly located within the deliberative and the protest schools.

Looking at the issue of human rights in the global context, again, a definitional consensus has been difficult to reach. According to Freeman (2002) and Ife (2008), in most Western countries, human rights are mainly seen to focus on the individual, whereas in non-Western countries, particularly in East Asian countries, the focus is on collective rather than individual rights. Much of the literature suggests that the contemporary idea of human rights has its origins in Western Enlightenment thinking dating back to the 17th century (Hayden, 2001; Freeman, 2002; Orend, 2002; Ife, 2008). According to Ife (2008), this is also true for many other concepts such as democracy, justice, freedom, equality and human dignity that are frequently used in political debates. However, in the global context, it appears that the developed Western industrialised countries of the First World tend to define human rights in terms of civil and political rights, while the communist Eastern bloc Second World countries define it as social rights, and the developing Third World countries define it as basic economic rights (Park, 1987: 406). Although different countries give emphasis to different categories of rights, in general, the concern with human rights for most states is the internalisation or localisation of human rights norms and practices. For this reason, the term “human rights” is defined in this study to mean the following:

“Human rights are internationally agreed values, standards or rules regulating the conduct of states towards their own citizens and towards non-citizens” (Peter Baehr, cited in Thoms & Ron, 2007: 683).

This definition is used because the modern concept of human rights primarily refers to the relations between governments and their citizens, where human rights are intended to protect individuals from the abuse of power by governments (Freeman, 2002: 7). According to international practice, it is also frequently meant to cover human rights of non-citizens residing in a particular state, especially when it comes to their economic, social and cultural rights.

Human rights are becoming increasingly accepted and claimed by both citizens and world leaders. In the Maldives, human rights became an issue of importance from the 1990s when international human rights NGOs like Amnesty International started reporting on human rights abuses in the country. Agencies like Amnesty International focussed mainly on civil and political rights then and did not substantially broaden their scope until a decade ago. However, since their reporting is based on international human rights norms violations, the above definition is useful for this study. The definition is also useful as there is formal recognition in the world today that a human rights regime came into existence in 1948 when the United Nations General Assembly (UNGA) adopted the Universal Declaration of Human Rights (UDHR). It is also now recognised that human rights, in modern times, are protected and upheld by international and national laws, and treaties.

In order to understand internationally agreed values, standards and rules, it is also relevant to look at the following definition of human rights used by the United Nations (UN) in order to clarify what is meant by human rights in the international arena. According to the UN Training Manual on Human Rights Monitoring (2001: 7), “human rights are legal guarantees protecting individuals against actions by governments which interfere with fundamental freedoms and human dignity”. The Manual further suggests that, human rights are characterised by their focus on the dignity of the human being, their universality, they cannot be waived or taken away, they protect individuals and groups, they are legally protected and internationally guaranteed, they oblige states and state actors, and they are equal and interdependent (United Nations, 2001: 8). At the same time, it is also important to remember that the human rights discourse is dynamic (Ife, 2008: 135).

According to Künnemann (1995: 326), the history of human rights shows that they are sources of basic state obligations that affect the “existential status” of human beings. They are not static, but vary over time and in different cultures and political contexts (Ife, 2008). The dynamic and changing nature of human

rights are seen by some to be a contentious issue. However, that is not the only source of contention within human rights in the international arena today. According to Callaway and Harrelson-Stephens (2007), there is also much contention on the extent to which the international community can enforce human rights on sovereign states. Before I turn to the debate about the controversies surrounding human rights, I will now critically analyse how international human rights norms were developed and how human rights can be classified in order to understand the human rights situation in the Maldives.

Development of International Human Rights Norms

In order to understand the context of the political transition in the Maldives, it is important to first understand how human rights have become a global issue of significance in the world today. Before the Second World War, human rights were not a subject of international relations. The tragic experiences of the Second World War made the international community realise that respect for human rights was at the basis of peace (Symonides, 1998a; Freeman, 2002). In 1945, shortly after the end of the War, the United Nations was founded largely as a replacement for the then defunct League of Nations. The League of Nations had been set up in 1919 at the end of the First World War by the allied victors, the United Kingdom, the United States, France, Italy and Japan. In 1945, the League was disbanded and the United Nations was established in its place on 24 October 1945. Fifty-one member states came together originally to form the United Nations (O'Byrne, 2003: 80).

The adoption of the UN Charter in San Francisco in 1945 marked the beginning of the historical evolution of international human rights law. According to Donnelly (1999), at that time, human rights were viewed as a domestic political matter and a sovereign prerogative of states, and even genocidal massacres like the Russian pogroms against the Jews or the Turkish slaughter of Armenians were not considered a fit topic for diplomatic conversation. The Second World War was what changed this thinking. It was a struggle not only against the physical dangers of war, but was also a war against moral evil that arose from the systematic violations of human rights by Hitler's

Germany. Evans (2007) suggests that human rights became a central concern only when mass repression, suffering and genocide, as well as transformations in the structure and distribution of wealth and power, led to the emergence of new paradigms competing for intellectual dominance and ideological hegemony. Even the League of Nations which was established at the end of the First World War after the Paris Peace Conference, did not mention human rights. The first priority, however, of the United Nations Charter, after the end of the Second World War, was to maintain peace. The concern for peace is articulated in terms of human rights (Haas, 2008).

The United Nations Charter “reaffirmed faith in fundamental human rights, and dignity and worth of the human person” and committed all members to promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion” (United Nations, 1985). The four fundamental freedoms were those which had been adopted by the allies as their war aims during the Second World War. They were: freedom of speech, freedom of assembly, freedom from fear and freedom from want. These four freedoms later became the four pillars on which the UDHR was built on.

Despite their vagueness, the human rights provisions of the United Nations Charter had a number of important consequences. They internationalised the concept of human rights. Although their full scope remained to be defined, this also meant that as far as these obligations were concerned, the states could no longer claim that human rights as such were essentially domestic in character. Instead, states had now assumed some international obligations relating to human rights. In addition, it also meant that the member states of the United Nations were obliged to cooperate with the organisation in the promotion of human rights, and this provided the United Nations with the requisite legal authority to undertake a massive effort to define and codify these rights.

According to O'Byrne (2003), the United Nations, for all its faults, such as its dependency on powerful nations for funding and the power held by the Security Council in decision making over important matters, is probably the most important agency involved in the protection of human rights worldwide. The foundation for the codification of human rights was laid by the proclamation in the 1948 Universal Declaration of Human Rights (UDHR) (Buerghenthal, 2000; Landman, 2005).

After its establishment, the United Nations moved rapidly and vigorously to formulate international human rights norms. The writing and subsequent adoption of the UDHR in 1948 was one of the first major achievements of the United Nations. This was seen by many as evidence of the organisation's commitment "to promote social progress and better standards of life in larger freedom" (O'Byrne, 2003: 85). The first draft of the UDHR was written by the Canadian lawyer and Director of the Division of Human Rights within the United Nations Secretariat, John Humphrey, who based it on a survey of national constitutions. This draft was then discussed extensively over two years in the Human Rights Commission, chaired by Eleanor Roosevelt, and the Third Committee of the UN General Assembly on Social, Humanitarian and Cultural Affairs. After two years of extensive deliberations, the United Nations General Assembly adopted the landmark UDHR on 10 December 1948 with forty-eight states voting for, none against, and eight abstaining (including six communist states, Saudi Arabia and South Africa).

The UDHR was an important step in codifying the emerging view that the way states treat their own citizens is not only a legitimate concern of international relations, but it should also be subject to international standards (Donnelly, 1999: 73). The adoption of the UDHR bound the states of the world together and sought to address human rights under one umbrella in a political and moral way (Callaway & Harrelson-Stephens, 2007: 8). But, according to Freeman (2002), the UN introduced the concept of human rights into international law without altering the concept of sovereignty. This resulted in a number of problems with the enforcement or implementation of the UN human

rights agenda as some countries that violated human rights, resorted to sovereignty or the claim of non-interference in state affairs as a reason for non-compliance with international human rights standards.

Contrary to popular belief that the UDHR is a Western concept, some 250 delegates and advisors from 56 countries were accredited to participate in the construction of the UDHR. A wide range of participants outside the Western bloc made significant contributions to the construction of the UDHR, and they were aware at the time of the significance of their words and deeds (Waltz, 2001; 2004). The delegates understood that their debate was helping to define human rights as well as create standards. The participants in the debates included a number of small states participants as well as participants from Middle-Eastern and Muslim states. Waltz (2001: 54) suggests that no participating delegation could claim to have been unaware of its contents, or its relevance.

It is true that a good proportion of the world population was still subject to colonial rule and had no voice in the debates, but a significant number of non-Western states, whose representatives made their views known, should suffice to discredit at least the claim that it was solely based on Western philosophy and its individualistic perception of human nature (Kabasakal Arat, 2006; Freeman, 2002). Furthermore, Kabasakal Arat (2006: 422) suggests that Western intellectual heritage overlaps with the Middle-Eastern and Mediterranean cultures, and borrows from it. Since the UDHR was adopted, and by the time the two Covenants (ICCPR and ICESCR) were drafted, the UN membership had more than trebled, with a number of new members coming overwhelmingly from Africa and Asia, which allowed more diverse views to be expressed (Kabasakal Arat, 2006).

Analysis of primary data using the transcripts of the UN discussions by Morsink (1999) and Waltz (2001, 2004) show that the representatives of several non-Western states, including those from Muslim states, participated in the discussions and shaped the content and wording of the document. After an extensive review of UN records and other available documentation, Waltz

(2001) talks about the four distinct roles that small states played in the creation of the international human rights standards. According to her, they were firstly witnesses, and secondly active participants in every stage. Thirdly, they provided leadership where necessary, and fourthly, they were active advocates and partisans in the formulation of the international human rights standards.

Small states were crucial in defending the place of socio-economic rights in the UDHR, were outspoken in defence of women's rights, were very sensitive to discrimination of any kind, were keen to carve out a role for themselves as full partners in the international system, and sought an end to colonial rule by seizing the opportunity to advance the cause of independence and self-determination and arguing that human rights should apply to all people everywhere, irrespective of the political status of their country (Waltz, 2001: 63-65).

Similarly, Waltz (2004) suggests that UN records document the contributions made by Arab and Muslim diplomats from 1946-1966 to the debate. It is frequently supposed that Muslim states were either absent, fundamentally contested the process and the project, or played no significant role. According to Waltz (2004), this was not the case.

Muslim countries took interest in five main issues. They included: religious freedom and the right to change religion, gender equality in marriage, social justice and the indivisibility of rights, the rights to self-determination and the "colonial clause", and measures of implementation and the right to petition (Waltz, 2004: 813-837).

Participants from the Muslim world did not always agree with each other on the various issues, but they participated actively in the debates and led to various contributions that resulted in the assertion of a right to self-determination, the most comprehensive statement of universality, culturally sensitive language about religious beliefs, and a separate article promoting gender equality (Waltz, 2004). Though not all of their positions were liberal, and not all of their efforts were successful, Waltz (2004) suggests that their role

should not be discounted. According to her, the Saudi Arabian abstention on the UN General Assembly vote on the UDHR may have been the reason for the inference that Muslim countries do not support human rights (Waltz, 2004). Constitutions adopted by many countries since the adoption of the UDHR in 1948 have been influenced by it. The UDHR is also the foundation on which a number of national and international laws and treaties, as well as regional, national, and sub-national institutions protecting and promoting human rights are based.

During the 1950s, the rise of the Cold War delayed the work on giving the UDHR legal force. The UDHR is a resolution of the UN General Assembly, not a treaty, and as such was not legally binding on states (Donnelly, 1998: 7). It had little chance of progressing beyond a declaration to become a legally binding treaty because of the ideological rifts of the Cold War and the perceived role of the state. In the West, for example, because of the ideology of liberalism and democracy that focussed on the right of the individual in both the political and economic arenas, there was a tendency for states to emphasise civil and political rights while marginalising economic, social and cultural rights. On the other hand, the ideology of communist states called for an emphasis on economic and social equality, ignoring the needs of the individual for the greater good of the society (Callaway & Harrelson-Stephens, 2007: 6). This resulted in human rights being once again relegated to the fringes of international relations even though states were now no longer willing to have human rights entirely in their domestic territory. At the same time, they were still unwilling to allow multilateral monitoring of national human rights practices, let alone allow international implementation or enforcement (Donnelly, 1999: 73).

During this period, the Maldives was still absent from the international scene. Although the Maldives was not colonised, it was a fairly small, isolated country under British protectorate status. Its only links to the outside world were with Ceylon (Sri Lanka). The country was ravaged by famine and malnutrition which had been endemic since the beginning of the Second World War, and the population was believed to have been halved from 80,000 to

40,000 in 1953 due to serious food shortages as a result of the famine (O'Shea, 2008). On 1 January 1953, under the 7th Constitution of the country, the Maldives was proclaimed a Republic, ending several years of monarchy.

President Ameen became the country's first President but his rule was short-lived, with the Maldives reverting back to a Sultanate in August of the same year under the rulership of Sultan Mohamed Fareed. Many historians believe that President Ameen's rule was cut short because he had imposed the Shari'ah penalty of amputation of the hands and the death penalty, and also because it had become common knowledge that he was misappropriating state funds (O' Shea, 2008). Although the Maldives remained a Sultanate under the reign of Sultan Mohamed Fareed, in August 1959, Ibrahim Nasir was appointed as Prime Minister and he effectively ruled the country.

The 1960s witnessed a new wave of human rights activity at the UN, led largely by the newly independent states of Africa and Asia. The ideological rifts of the Cold War meant that, rather than one treaty codifying the UDHR, two separate treaties were developed (Donnelly, 1999). After the adoption of the UDHR, the UN set about writing two International Covenants on Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which were adopted unanimously by the UN General Assembly in 1966. These two covenants helped to lay out the recommendations in the UDHR as international law.

In December 1966, the ICCPR and the ICESCR were opened for signature and ratification. These two Covenants contain the measures of implementation required to ensure the realisation of the rights and freedoms set out in the UDHR, giving greater strength to the Declaration. However, although the two covenants were opened for signature and ratification in 1966, it was not until 1976, a decade later, that these covenants entered into the force of international law and became legally enforceable (Donnelly, 1999). The two Covenants, along

with the UDHR provided, and still provide, an authoritative statement of internationally recognised human rights.

The Maldives was not part of these developments taking place at the UN until it gained its independence from the British in July 1965 and joined the UN in September the same year. Under Prime Minister Nasir's leadership, the Maldives had begun opening up to the international community, joining the Colombo Plan in November 1963 (O'Shea, 2008). It continued its path to become a member of the world community through the introduction of a British-based education system, the establishment of radio communication links with neighbouring countries, and the opening up of the international airport. On 11 November 1968, the Maldives abolished the Sultanate once more and became a Republic for the second time, with a new Constitution that came into effect the same day and with Ibrahim Nasir becoming the second President of the country, but the first President under the second Republic.

The early 1970s was a slow period in terms of progress with implementation of international human rights. The ICCPR and the ICESCR took ten years to enter into force with the necessary ratifications from thirty-five states. This delay was attributed in part to the attitude of many states that human rights issues were largely a matter for domestic sovereignty. With the entry into force of the ICCPR and the ICESCR, human rights norms had become fully internationalised, but although countries had become signatories and ratified them, implementation and enforcement remained almost completely national because the supervisory committees for the Covenants were not authorised to find violations of treaty, call for changes in state practice or seek remedy for victims. The UN was only authorised persuasive verbal action against human rights violators.

During the mid-1970s, a new wave of intensive international human rights activity was triggered by three major events. The first was the overthrow of the Allende Government in Chile in September 1973 and the resulting violent repression, which led to the creation of a UN working group on Chile to look into

human rights violations. The second was the entry into force of the ICCPR and ICESCR in 1976 which resulted in the creation of the UN Human Rights Committee, a treaty-based, non-partisan monitoring forum which considers five-yearly reports submitted by UN member states. The third was Jimmy Carter's presidency of the United States in 1977, which embraced human rights as a priority for American foreign policy (Donnelly, 1999: 76). These events created a new momentum and legitimacy to the work of human rights advocates throughout the world. At the same time, the Commission on Human Rights, the charter-based mechanism that had been in existence since 1946, began to consider human rights violations on a global or thematic basis.

During this period, important new treaties such as the 1979 Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the 1989 Convention on the Rights of the Child (CRC) were formulated, and special representatives and rapporteurs were appointed to study human rights situations in a growing number of UN member countries (Buerghenthal, 2007: 76).

The mid-1970s also saw a major upsurge in the importance of international human rights non-governmental organisations (NGOs), symbolised by the award of the Nobel Peace Prize to Amnesty International in 1977 (Donnelly, 1999). The private status of NGOs allowed them to operate free of political control of states and they did not have to take into account other foreign policy objectives (Donnelly, 1998). These NGOs were important actors in changing bilateral and multilateral human rights policies, in addition to their role in advocating for victims of human rights abuses. By the end of the Cold War, human rights had become a regular and well-established part of international relations.

While the above developments were progressing at the global level, the Maldives was opening up to foreign influence with the introduction of tourism and the widening of its trade links with South East Asia. Introduction of wireless

communication in May 1977 allowed the Maldives for the first time to be able to communicate directly with their representative at the UN. The 1970s also saw a rapid change in the Maldives' political sphere with Maumoon Abdul Gayoom being elected as the new President in November 1978 when President Nasir declined to run for a further term, citing ill-health as the reason. The new Government was to rule the Maldives for the next thirty years.

The late 1970s also saw the beginning of rapid socio-economic development in the Maldives with the implementation of a number of developmental projects such as the building of schools and health centres through foreign donor assistance, particularly through the UN. During this period, although rapid developments were taking place at the UN in terms of development of human rights norms, they were not a major concern for the Maldives.

In 1976 and in 1989, two additional optional protocols on the ICCPR were adopted by the United Nations, and in 2008, an optional protocol on ICESCR was also adopted. The UDHR together with the ICCPR and its two optional protocols as well as ICESCR and its optional protocol are commonly referred to as the International Bill of Human Rights (IBHR). The IBHR, therefore, consists of the UDHR (adopted in 1948), the ICCPR (1966) with its two Optional Protocols (1976, 1989), and the ICESCR (1966) with its Optional Protocol adopted in 2008. Although the IBHR is not the only source of international human rights law, it represents a milestone in the history of human rights. It is considered a "veritable Magna Carta, marking humankind's arrival at a vitally important phase: the conscious acquisition of human dignity and worth" (Donnelly, 1999: 75).

When the ICCPR and ICESCR entered into force in 1976, the UDHR became a legally binding treaty and was now valid for every member of the human family everywhere, regardless of whether or not governments had formally accepted its principles or ratified the covenants. It was seen as an authoritative statement of internationally recognised human rights. This view is

supported by Buergenthal (2007: 73), who suggests that, as a matter of international law, human rights had now been internationalised and removed from the protective domain of a subject that previously was essentially within the domestic jurisdiction of states. However, this universalist view of human rights norms was, and continues to be, an issue of intense debate as discussed below in the chapter.

In addition to the IBHR, there are also other treaties that deal specifically with discrimination based on race, gender, torture, children, refugees, workers and migrant workers (Shue, 1996). According to Buergenthal (2000), human rights are interdependent and must be considered together when determining a state's human rights responsibilities. By addressing an issue of genuine concern to peoples all over the world, the promotion of human rights has become a political force difficult for many governments, including the Maldives, to ignore. Human rights thus gained political respectability as an important element in contemporary international relations.

According to Donnelly (1998), the 1980s saw a dramatic decline in the fortunes of repressive dictatorships throughout Latin American countries, and by 1990, elected governments held office in most countries. Even in Asia, dictatorships like those in the Philippines, South Korea, Taiwan and Pakistan were overthrown. Changes also occurred in Central and Eastern Europe where Communist Party dictatorships fell. With the collapse of the Soviet empire in 1991, the Cold War international order crumbled and this altered the context for international human rights. In Sub-Saharan Africa, where no-party and one-party states had been the norm during the 1980s, political liberalisation had become widespread and multi-party elections were becoming common. However, the Middle East still continued to be ruled by brutal dictatorships in Syria and Iraq, though modest liberalisation was seen in the monarchies of Jordan and Morocco. Progress was also made in the United States where the Senate finally ratified the ICCPR in 1992.

In bilateral relations, human rights continued to become more deeply entrenched and a less controversial foreign policy concern. International human rights now became more frequently discussed in a wider range of countries. However, states that were targets of international human rights pressure continued to appeal to sovereignty even though they were rebuffed by almost all other states (Donnelly, 1998: 15). The outcomes of the Second World Conference on Human Rights held in Vienna in 1993 showed the maturing progress of human rights as an international issue with the establishment of the interdependence of democracy, economic development and human rights. In sharp contrast to the 1950s, the place of human rights had become more prominent in modern history.

Although human rights were being discussed more widely at international fora and were becoming increasingly linked with economic development, during the 1980s and 1990s, the Maldives was only concerned with achieving rapid progress in terms of its socio-economic development. Increasing foreign aid and political stability allowed the Maldives to achieve many of the goals set out by the UN in terms of social and economic development. With the UN agencies emphasising its assistance in terms of rights to development after the Second World Conference on Human Rights in Vienna, human rights became talked about in the Maldives. But even then, human rights were associated with the right to development, and in that sense more to do with socio-economic and cultural rights rather than with civil and political rights.

One of the most important developments in the post-Cold War era is the central focus on human rights abuses on a global scale. This was a significant development not only for the victims of rights abuses, but also for scholars and activists who were trying to shape agendas in the international arena (Christie, 2008). According to Beck (2000), the post-Cold War era was a time for optimism and hope for a transition from a nation-state world order to a cosmopolitan world order where human rights were expected to precede international law. Globalisation meant that there were socialisation processes

which were indifferent to state boundaries. With the collapse of the Eastern bloc, the West was left without an enemy and in need of a new and revivifying source of legitimation, which was taken up by embracing human rights to fill the vacuum (Beck, 2000).

The 1990s was the decade when new constitutions brought human rights principles to the states created by the breakup of the Soviet Union. It was also the time when the UN agencies finally had the courage to tackle human rights violations by member states, and the United States actively promoted human rights and democracy abroad through its foreign policy. This was the era of humanitarian intervention in Bosnia, Kosovo and East Timor, and the heyday of the UN tribunals in The Hague and Arusha, Tanzania (Ignatieff, 2002).

For the Maldives, the late 1990s through to 2003 could be seen as one of the darkest periods of history in terms of gross human rights abuses committed by the Government. It also saw the beginnings of international interest in the human rights situation in the Maldives. Although rapid progress had been achieved in a number of human development indicators, the country continued to be severely repressed in terms of its civil and political rights. At this stage the Government had not ratified ICCPR or ICESCR, but had ratified some of the other UN human rights instruments such as CRC (in 1991) and CEDAW (in 1993). The UN agencies in the Maldives were, however, trying to convince the Government of the need to do so. In terms of civil and political rights, however, any opposition or criticism of the Government was not tolerated and resulted in arbitrary arrest and detention in jail where a number of detainees were tortured and abused. Power was concentrated within a small circle of family and friends and long-term associates of the leadership who controlled the economic and political life of the country, ruthlessly crushing any nascent signs of non-conformist thinking, dissent or popular opposition (Shaheed, 2009: 54). The late 1990s also saw the beginning of organised domestic opposition to Gayoom's Government with the current President Nasheed using the media to criticise the Government and exposing incidences of corruption and torture that were taking place under the Gayoom regime.

At a global level, the period after 11 September 2001 ("9/11") is especially interesting because of the changing circumstances in which human rights were violated. According to Ignatieff (2002), the question after 9/11 was whether the era of human rights had come and gone. Instead of Beck's (2000) cosmopolitan world order, an alternative idea and reality of international relations emerged in which USA was seen to breach international law, with complete disregard for international human rights norms, especially in their use of abuse and torture with the detainees held in Guantanamo Bay and Abu Ghraib prisons (Christie, 2008). According to Christie (2008: 654), in certain respects, this era could be described as a post human rights era. Western and other states prioritised security at the expense of human rights, while still claiming the moral high ground in terms of rights (Christie, 2008). A state's reputation no longer rested solely on its ability to exercise authority over its territory and the population that resided within it. It also embraced the idea of sovereignty as responsibility, where a state had a duty to provide for basic human rights in its own land mass and to be concerned about the abuse of rights overseas.

The War on Terror, following 9/11, revived the ability of the nation-state to reassert anti-human rights principles. This time, however, that ability was demonstrated by the supposedly liberal West. Security had now become the main priority of the nation-state. The hope and optimism that was ushered in with the end of the Cold War and the increasing universalisation of rights, now gave way to allow many states to re-invoke national sovereignty against more universal claims, taking up hard-line positions on human rights by emphasising security over rights and liberties (Christie, 2008: 655).

The after effects of 9/11 and the subsequent global War on Terror had important ramifications in the Maldives. The growing hatred towards Muslims in general in the West and the viewing of Islam as a threat to the world, which was constantly portrayed by the Western media, led to an increase in the growth of Islamic extremism in the Maldives. With freedom of assembly and

expression severely curtailed by the Gayoom Government in the Maldives, the mosques were among the few places where people could meet to express dissent (Denyer, 2012). It provided an avenue for an underground movement headed by Islamic extremists. Added to this was the rise in Islamic extremism and terrorism in the South Asia region, where hundreds of Maldivians travel for education and other purposes. According to reports, a number of young Maldivian men attending Pakistani madhrasas have turned up fighting in Afghanistan or as members of the violent Pakistani extremist group, Lashkar-e-Taiba (Denyer, 2012).

Several incidents highlight the Maldives' vulnerability of being used as a hub for extremist activities and a clear sign of the presence of Wahhabi elements in the Maldives. One of these incidents was the 29 September 2007 bomb blast at Sultan Park, and another was the stand-off between the security forces and masked men at a mosque in Himendhoo Island in Alif Alif Atoll on 6 October 2007 (Bonofer, 2010). Reports of connections between Maldivians and fundamentalist groups were available as early as 2002 (Shaheed, 2009) when a Maldivian national was arrested in Karachi and taken to Guantanamo Bay by US security forces for his connections with Al-Qaeda. There have also been allegations of the involvement of a Maldivian national in the Mumbai Terror attacks in November 2008 as well as further arrests of suspected Maldivian terrorists in Pakistan in 2009 and 2010 (Amir, 2011).

The centuries-old Islamic traditions that existed in the country had shifted, and religion which had not been part of the political discourse in the Maldives, began to be used by Gayoom to stay in power. As Shaheed (2009) suggests, Islam had begun creeping into the political agenda and was deployed as a tool to entrench a new political elite and to discredit old and new rivals. The turn of the 20th century proved to be one of the turning points in the history of the Maldives. Continued suppression of dissent and increasing human rights abuses in jail resulted in the death of an inmate on 19 September 2003. This death sparked widespread rioting in the country and led to international pressure for the Maldives to embrace fundamental human rights and

democracy. The Maldives ratified CAT (in 2004), OPCAT (in 2006), ICCPR (in 2006) and ICESCR (in 2006). The section below describes how human rights can be classified. This classification also helps to explain some of the controversies surrounding human rights.

Classification of Human Rights

The development of human rights is often described in the literature as having three phases, waves or generations (Ife, 2008; Haas, 2008; Weston, 2006). Inspired by the three themes or the three pillars of the French Revolution -- liberty, equality and fraternity -- the French jurist, Karel Vasak, coined the idea in the 1970s as a template for organising understanding of human rights (Langlois, 2009: 16). Although Vasak's classification is considered as unsatisfactory either as theoretical or a chronological account of human rights (Langlois, 2009), it is a simplified expression of an extremely complex historical process. Weston (2006: 21) suggests that it was not intended to suggest a linearity in which each generation gives birth to the next generation then dies away; nor did it imply that one generation was more important than the other. According to Weston (2006), the different generations of human rights are understood to be cumulative, overlapping, and, interdependent and interpenetrating.

The first generation of human rights also referred to as civil and political rights. They have their intellectual origins in the 18th century with the Enlightenment, and are informed with the political philosophy of liberal individualism and the related economic and social doctrine of *laissez faire* (Ife, 1999; Weston, 2006). Although dignity and respect for the human person is accorded in most religions, it appears that the modern concept of human rights owes much to Western Enlightenment thinking and as such it could be said to have originated in the West. First generation human rights concern the fundamental freedoms which are seen as essential to the effective and fair organisation of democracy and civil society. They include rights to vote, freedom of speech, freedom of assembly, fair trial and equality before the law, citizenship, privacy, self-expression, freedom of religion, the right to nominate

for public office, and the right of free participation in the society and in the civic life of the nation. They also include the right to be treated with dignity, the right to public safety, freedom from discrimination (including religious, racial and gender), protection in order to go about one's lawful business and freedom from intimidation, harassment, torture and coercion (Ife, 2008: 25). These rights were fundamental in the West and to the interests fought for in the American and French Revolutions and to the rise of capitalism (Weston, 2006).

Since the UN General Assembly proclaimed the Universal Declaration of Human Rights (UDHR) on 10 December 1948, the concept of human rights has become one of the most important concepts in contemporary politics. According to Haas (2008), in the 21st century, the world community is no longer willing to repeat the evil practices of Nazism and the horrors of the genocides of the 20th century. The rights set forth in Articles 2 to 21 of the UDHR belong to the first generation of rights. These rights must be protected and guaranteed, and because of this, first generation rights are sometimes also referred to as negative rights as these rights favour abstention over intervention of the government in the quest for human dignity (Ife, 1999; Weston, 2006). Weston (2006: 21), however, suggests that it is wrong to assume that these rights correspond completely to the idea of negative rights as opposed to positive rights because, for example, rights such as those to security of the person, to a fair and public trial, to asylum from persecution, and to free and fair elections, manifestly cannot be assured without some affirmative government action. The state has to ensure that these rights are not threatened or violated, and this is usually done through legal mechanisms such as bills of rights, constitutional safeguards and international human rights conventions (Ife, 2008: 26).

Campaigning for first generation human rights tends to involve the prevention of human rights abuses, rather than the more positive assertion and realisation of human rights (Ife, 1999). Many of the legal instruments such as the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) are regularly and knowingly breached, and such abuses are sometimes carried out with impunity. The core value of first

generation human rights is the notion of liberty, a shield that safeguards the individual, alone or in association with groups, against the abuse of political authority (Weston, 2006, Langlois, 2009). Constitutions adopted in most countries since the Second World War feature safeguards against first generation rights.

The second generation of human rights, also known as economic, social and cultural rights, originated in the socialist tradition and fundamentally, are claims to social equality. They have their origins in the early 19th century Saint Simonian movement in France, and have been promoted by different revolutionary struggles and welfare movements that have taken place since then (Weston, 2006). Second generation rights are rights of individuals or groups to receive various forms of social provisions or services in order to realise their full potential as human beings (Ife, 1999). They include the rights to employment, an adequate wage, housing, adequate food and clothing, education, adequate health care, social security, to be treated with dignity in old age, to reasonable recreation and leisure time (Ife, 2008: 26). According to Weston (2006), these rights were largely a response to the abuses of capitalist development and its underlying and essentially uncritical conception of individual liberty, which tolerated and even legitimised the exploitation of working classes and colonial peoples.

The rights set forth in Articles 22 to 27 of the UDHR belong to the second generation of rights. Second generation rights imply a much more active and positive role for the state, and are, therefore, referred to as positive rights. Ife (1999: 56) suggests that the state has to take a more active role in actually ensuring that these rights are realised through various forms of social provisions, rather than simply protecting them, as is the case with first generation rights. Furthermore, given that socialism is less accepted than liberalism in mainstream Western political discourse, there is correspondingly less consensus around second generation rights and about the extent of their implied state obligations because they involve more resources and these resources may be expected to be shared more equitably among citizens (Ife,

2008: 26). According to Weston (2006), in the same way that some first generation rights cannot be designated properly as negative rights, so all rights embraced by the second generation cannot be labelled as positive rights.

Equality rights or second generation rights are not as readily guaranteed by legal and constitutional mechanisms although there are various conventions and human rights instruments that seek to cover these rights, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR). It is more difficult to establish guilt and apply sanctions to prevent such abuses. For example, as Ife (1999; 2008) suggests, it would be very difficult to take a leader of a country to court simply on the grounds of a country's inadequate education system. Weston (2006) suggests that the internationalisation of second generation economic, social and cultural rights have been relatively slow as free-market capitalism is on the increase due to increased globalisation at the turn of the 21st century. However, he predicts that as social inequalities created by unregulated national and transnational capitalism becomes more evident over time, it is probable that the demand for second generation rights could, in some instances, even lead to violence (Weston, 2006).

The third generation of human rights known also as solidarity, group, or collective rights are best understood as a product of both the rise and decline of the nation state in the last half of the 20th century (Weston, 2006: 22). They reflect the emergence of Third World nationalism and its demands for global redistribution of power, wealth and other important values or capabilities such as the right to political, economic, social and cultural self-determination, the right to economic and social development, and the right to participate in and benefit from the common heritage of mankind such as shared Earth and space, scientific, technical and other information and progress, and cultural traditions, sites and monuments (Weston, 2006: 22; Sano, 2000: 737).

The core value of third generation rights is the notion of fraternity. These rights commonly belong to a community, population, society or nation rather than being readily applicable to an individual, even though individuals can

clearly benefit from their realisation (Ife, 1999: 57). Third generation rights have only been recognised recently and their codification in treaties and conventions is only at a very preliminary stage. As such, legal and constitutional mechanisms for their protection or realisation are at an embryonic form and they are more aspirational than justiciable in character, and their status as international human rights norms remains ambiguous (Ife, 2008; Weston, 2006).

Third generation human rights are foreshadowed in Article 28 of the UDHR, which states that “everyone is entitled to a social and international order in which the rights set forth in this Declaration can be fully realised”. According to Ife (1999: 57), this is an important area in the human rights debate as third generation rights are not easily identified as human rights because of the dominance of the traditional liberal views of what constitutes human rights and of what it means to be human, which often coincide with first generation rights or civil and political rights. However, Weston (2006) suggests that third generation rights represent an important area for human rights struggles as they represent the collective rights of countries and peoples to secure a “new international economic order” that would eliminate obstacles to their economic and social development.

Some of the current literature on human rights even talks about a fourth generation of human rights, although there does not seem to be consensus on what the fourth generation comprises. Bobbio (1996) sees this fourth generation of human rights as being related to the disturbing results of biological research and to the question of genetic identity. Other authors see it as communication rights in the new information age where freedom to information, including the right to access to information held by public bodies, is now recognised as crucial to democracy, good governance and full citizenship (WACC, 2010). According to WACC (2010), communication rights go beyond freedom of opinion and expression to include areas such as democratic media governance, media ownership and control, participation in one’s own culture, linguistic rights, and rights to education, privacy, peaceful assembly, and self-

determination. Before moving onto the discussion of internalisation of human rights norms and practices, I take a brief look at the controversies surrounding the universalisation of international human rights norms.

Controversies in Human Rights

Although human rights have gained a place of prominence in contemporary world politics, this is not without controversy. At the time of formulation of the first draft of the UDHR, the Human Rights Commission was chaired by the US first lady, Eleanor Roosevelt who was an ardent advocate for social justice. The initial draft was written by the Canadian jurist John Humphrey who was the United Nation's first Director of the Division on Human Rights. By the time of its finalisation, the French legal scholar René Cassin had great influence over the text and was subsequently awarded the Nobel Peace Prize (Waltz, 2001: 46-47). This led to the widespread popular belief that the UDHR was largely a Western affair. At the same time, there is near universal consensus that it was the shared revulsion by all the delegates to the horrors of the Second World War that had made the most significant impact on the formulation of the UDHR.

A scholarly scrutiny of the drafting process by Johannes Morsink in 1999 and by Susan Waltz in 2001 and 2003 confirm that the UDHR and subsequent international human rights treaties have been issued as responses to violations and constructed through negotiations by state representatives who had different cultural backgrounds and philosophical dispositions (Kabasakal Arat, 2006). Although most of the countries of Africa and Asia (including the Maldives, which was never colonised, but was a British protectorate at the time) were then still under colonial rule and therefore, not members of the United Nations, Morsink (1999) suggests that the presence of economic, social and cultural rights in the UDHR owes much to the strong influence of Latin American socialism and to John Humphrey, contrary to the notion that it was influenced by the USSR or communists. He, therefore, suggests that the charges of ethnocentrism that are levelled at the UDHR are often not well-founded (Morsink, 1999).

Historical analyses of human rights discourses show that the construction of rights is grounded empirically and not theoretically (Donnelly, 1999). Changing social conditions present new needs and awareness about the actual violations of human dignity, and power structures, struggles, and negotiations offer specific formulations of rights. Kabasakal Arat (2006) suggests that at the time of the formulation of the UDHR, it was agreed that nations should and could reach practical agreement on basic principles of human rights without achieving a consensus on their foundations. The UDHR was meant to serve as an effective critic of existing practice and was meant to help transform reality. Callaway and Harrelson-Stephens (2007: 109) suggest that universalism in human rights means that humanity comes before culture and traditions.

Constructing universal human rights, therefore, meant constructing norms of a global culture. Donnelly (2007) points out that by the 1980s, universality of human rights had become not merely appropriate but essential because gross violations were occurring in some states, which were then justified as an appeal to culture. However, An-Na'im (1992) maintains that it is the lack of sufficiency of cultural legitimacy of human rights standards that is one of the main underlying causes of violations of those standards. As Teson (2001) suggests, the international law of human rights cannot mean one thing to the West and another to the Third World. It embodies the imperfect yet inspired response of the international community to a growing awareness of the uniqueness of the human being and the unity of the human race (Teson, 2001: 392).

A key debate to the issue of universal applicability of human rights is posed by cultural relativists, who criticise the philosophical and cultural origins of the International Bill of Human Rights, and who view the current conceptualisation of human rights as an outgrowth of Western thought, a tool used by Western powers to interfere into the affairs of other states, a design of Western cultural imperialism (Kabasakal Arat, 2006: 418). Universalists, on the

other hand, argue that their position enjoys empirical support as some rights articulated in the International Bill of Human Rights can be found in cultural references and religious texts of many communities, usually as duties (Ishay, 2008; Kabasakal Arat, 2006). Some authors like Howard (1992) do not believe that the concept of human rights is universal in origin. She believes that it cannot be located in most societies, and it is therefore wrong to look for consensus on the content of human rights (Howard, 1992).

Although the greatest number of challenges to the universalisation of human rights comes from non-Western sources, some challenges do come from Western sources themselves. Bauer (2003), therefore, suggests that it is wrong to assume that non-Western perspectives on human rights are the greatest challenge to its universality. This would ignore the fact that even within the West, particularly in the United States, there are significant numbers of people who hold ideas of human rights that are different to the dominant liberal interpretation of international human rights (Bauer, 2003:1). She also suggests that there are strong traditions within the non-Western world that are consistent with the perspective of universalisation of human rights (Bauer, 2003). For this reason, she concludes that the genuine disagreement over human rights principles is a question of cultural legitimisation rather than cultural relativism, where it is not the principles that are disagreed to, but their implementation and prioritisation (Bauer, 2003: 1). This is supported by An-Na'im (1992: 20) as well, and he further suggests that there are actual or potential differences in perceptions and interpretations of cultural values and norms even within different groups in a society so that there could be different evaluations of the legitimacy of human rights standards among these different groups. However, An-Na'im (1992) is optimistic that agreement can be reached among the cultural traditions of the world for universal cultural legitimacy of human rights through cross-cultural dialogue. I support Teson's view that human rights law cannot mean different things for different peoples. At the same time, culture cannot be ignored in understanding human rights, and efforts have to be made to reach a universal acceptance of the legitimacy of human rights in today's world through cross-cultural dialogue. (Bauer, 2003; Li,

2001; An-Na'im, 1992). For the purposes of this study, I will take a brief look at both the Asian and Islamic challenges to the universalisation of human rights, as these are both relevant to the context of the Maldives.

The “Asian Values” Debate

During the early to mid-1990s, some Asian states and intellectuals challenged the universality of human rights, which sparked the “Asian values” debate. Singaporean Senior Minister, Lee Kuan Yew and other officials proposed a counter model to the liberal individualism of the West, particularly to the American way of life, which they saw as overrun by civil society and shattered by excessive individualism, leaving the country ridden with violent crime, drugs, guns, vagrancy and immoral behaviour (Bauer, 2003: 3). The proposed counter model was based on the strong hand of a wise and benevolent patriarch who can instil respect for “Asian values” which included thrift, industriousness, respect for elders and authority, emphasis on family and restraint of immediate gratification (Bauer, 2003: 3-4; Freeman, 2002: 102). The underlying claim to this was that Asians prioritised economic and social rights over civil and political rights, the community over the individual and social order and stability over democracy and individual freedom (Bauer, 2003). It must be remembered that most Asian countries were not represented at the UN during the formulation of the UDHR as they were under colonial rule at that time. Singapore was clearly seen as a counter-example of a state that proved that liberal democracy was not a prerequisite for economic growth and social cohesion (Sim, 2001).

In Singapore, one-party rule was legitimised and any opposition was thwarted as it was believed to lead to ideological fragmentation, and it was also considered selfish and individualistic to demand welfare or betterment of one’s social position from the government. Instead, communitarianism was promoted as an alternative, where the community was stretched beyond the family to include the ethnic community, and where all employees contributed a part of their pay to their ethnic community to support self-help groups, so that national interest could be placed above individual interests. Communitarianism, thus,

strove to contain dissent as the voices of a vocal minority through racialising citizens by constituting them as ethnic (Sim, 2001). Countries like Malaysia, China, Vietnam, Cambodia and Myanmar also supported the “Asian values” argument.

Some human rights supporters believe that the “Asian values” debate was an ideological disguise for oppressive practices of authoritarian governments (Freeman, 2002). Critics of the “Asian values” argument like the economist and philosopher Amartya Sen suggest that there is little evidence to support the general theory that political and civil rights hamper economic growth (Bell, 1996: 645). The “Asian values” counter-model proposed by Asian governments was seen by Bauer (2003: 4) as an effort by them to engage the international community in a debate over human rights while “attempting to enjoin their people in an affirmation of the cultural nationalistic perspective”.

In the Maldives, the Gayoom Government maintained a similar stance. Gayoom insisted that the country was not ready for democracy and multi-party politics, when a number of people tried to register a political party in 1994. Instead, he claimed that maintaining political stability and social order were more important if the country was to maintain socio-economic growth and prosperity. However, according to Bauer (2003), the Asian financial crisis of the late 1990s discredited the argument that the success of Asian economies was due to the stability of their authoritarian and neo-authoritarian governments. Furthermore, Asian human rights activists and intellectuals from various NGOs supported the universality and indivisibility of human rights, which was reflected in the Bangkok Declaration of the regional preparatory meeting (which the Maldives participated in) leading up to the 1993 Second World Conference on Human Rights in Vienna. The participants at the meeting also suggested that the “Asian values” argument should not be dismissed as cultural relativism, and pointed out the importance of remaining open to the possibility of justifications for human rights in local traditions, especially if the ultimate aim of human rights diplomacy is to promote them (Bauer, 2003; Bell, 1996).

Islam and Human Rights

Another significant challenge to the universalisation of human rights is that posed by Islam and Muslim states. According to the Islamic scholar, Abdullahi Ahmed An-Na'im, the fundamental problem for Muslims seems to be the obvious conflicts between Islamic Shari'ah and certain human rights, especially the rights of women and non-Muslims, as well as the issue of freedom of religion (An-Na'im, 2001). While international human rights instruments are based on the principle of equality in maintaining human dignity, some Muslim states and Islamic scholars reject this fundamental principle of equality and have even gone to the extent of devising an alternative human rights declaration. On 5 August 1990, Foreign Ministers of the Organisation of the Islamic Conference (OIC), an organisation which the Maldives is a member of since 1976, adopted the Cairo Declaration on Human Rights in Islam at its Cairo meeting. This declaration had various discriminatory clauses and displayed substantial deficiencies with regard to women's rights and equality.

The Cairo Declaration is not only presented as an Islamic human rights framework, but it also specifies its religious foundation in several articles, including Article 24, which states that "all the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah", and Article 25 which reaffirms that "the Islamic Shari'ah is the only source of reference for the explanation or clarification of any articles of this Declaration" (Kabasakal Arat, 2006: 432-433). The Cairo Declaration is seen by Littman (1999) to gravely threaten the inter-cultural consensus on which international human rights instruments are based, and reveals a deliberately restrictive character with regard to certain fundamental rights and freedoms, which are below the legal standards in effect in a number of Muslim countries.

As Kabasakal Arat (2006: 433) explains, several Muslim states that are party to a number of UN conventions on human rights have placed reservations on a number of articles on the grounds that they are incompatible with the Islamic Shari'ah or reserved the right to uphold the provisions of conventions only if they are consistent with the Islamic Shari'ah. The Maldives, which is a

100 per cent Muslim state whose Constitution states that you have to be a Muslim to be a citizen, has done the same with regards to the two covenants ICCPR and ICESCR, as well as a number of the other UN human rights instruments. The Maldives' reservations refers to the application of the principles set out in these instruments without prejudice to the Constitution of the Maldives, which refers to the Islamic Shari'ah as one of the fundamental sources of Maldivian Law.

According to Bauer (2003), the debate over human rights in the Islamic world is basically one between reformists (whether they are Islamist or secularist) and conservatives. She believes that Muslims are concerned about losing their ability to control their own economies, their position in world power, and most importantly, their cultural assets (Bauer, 2003). Since Muslim thinking or culture is not homogenous, the discourse among Muslims can be divided into three identifiable perspectives: conservatives, liberals and reformers. For Muslim conservatives, individual rights are immaterial to social justice; for Muslim liberals, the Muslim world needs to adjust to universal human rights standards which require a transformation in Islamic thinking; and for the Muslim reformers, revolution in information technology, along with higher incomes and educational opportunities, offer new standards against which to assess progress towards the realisation of human rights ideals (Bauer, 2003: 5). These three groups are found within the Maldives as well. But, unfortunately, it is the conservative voices which are heard the loudest.

As An-Na'im (2001) suggests, conflicts between Islamic Shari'ah and international human rights norms are evident even in the case of the Maldives. For example, according to Amnesty International (2009), 184 people were sentenced to flogging in 2006 as a punishment for extra-marital sex. Among these, 146 were women, as evidence to convict the man is harder to come by whereas, in the case of the woman, pregnancy is seen as clear evidence of the wrong-doing. On the issue of freedom of religion, Flexner (1999) suggests that freedom of religion and conscience is one of the most important human rights. For him, the relationship between an individual and his God, his religion and

hereafter touches the core of that person, and no one has the right to interfere with this (Flexner, 1999: 72). In the Maldives, the Constitution does not allow a non-Muslim to be a citizen thereby restricting this fundamental right.

According to An-Na'im (2001), Islamic Shari'ah is a universal system of law and ethics and purports to regulate every aspect of public and private life. The power of Shari'ah is derived from its moral and religious authority as well as the formal enforcement of its legal norms. Shari'ah influences individual and collective behaviour in Muslim countries through its role in the socialisation processes of such nations regardless of its status in their formal legal systems. However, he says that it is not the only determinant of human behaviour, nor the only formative force behind social and political institutions in these countries (An-Na'im, 2001).

The Shari'ah is a codification of the spiritual and moral guidelines provided in the Qur'an, Hadith and Sunna, and it involves a process of interpretation, and interpretations can vary. An-Na'im (2001) disputes the traditional method of interpretation and suggests that a number of inconsistencies between the Shari'ah and human rights standards can be eliminated through a critical analysis of Muslim scriptural imperatives (An-Na'im, 2001: 315). He does, however, suggest that human rights advocates in the Muslim world must work within the framework of Islam to be effective (An-Na'im, 2001). According to him, they need not be confined to the particular historical interpretations of Islam, and there is room for legitimate disagreement over the precise nature of these dictates in the modern context (An-Na'im, 2001). He further suggests that a constructive approach could be used to reinterpret the fundamental sources of the Islamic tradition (An-Na'im, 2001). Kubba (2003) agrees with this, and points out that since some interpretations of the Qur'an contradict one another, it becomes important to understand Muslim history in a "genuinely historical way", which is to understand it relative to the circumstances in which it was written.

According to Kubba (2003: 47), unless Muslims can move away from the out-dated epistemology that has been taught among the Muslim *ulama* for so long and the conflated regional or local customs, there is a risk of retarding the political momentum of liberal Islam and impeding access to the true meaning of Islam. Modernisation would mean that there would be changes in the relations between human beings and the natural world (Howard, 1992). This means that the approach should rely on reason and rational thought rather than on revelation (Hunter, 2009). It may also be important to look at the interests of power groups already enjoying privileged positions when looking at human rights violations in Islamic states (Mayer, 1995). As Falk (1992) suggests, this places a greater responsibility on the capacity of Islamic scholars to interpret and persuade. However, in the real world, the obstacles are that most Muslim scholars are either silent, in exile, or in prison (Falk, 1992), and this is true for the Maldives as well.

According to Kabasakal Arat (2006), cultures are neither monolithic nor static, but there are people who would benefit from keeping a culture monolithic and static. She believes that cultures are not only based on power structures, but through their values systems they also maintain them, privileging some members of the society and disadvantaging others (Kabasakal Arat, 2006: 435). In such instances, the privileged ones would tend to use their power to perpetuate those values that would justify and sustain their privileged positions.

Although modern reformers have expressed some support for the need for interpreting Islamic Shari'ah differently from its historical interpretations, very little has been done to develop an adequate reform technique that makes Shari'ah entirely consistent with current standards of human rights (An-Na'im, 2001). As Kabasakul Arat (2006: 437) states, only by reiterating that human rights treaties are constructed outcomes of negotiations that demand change in all discriminatory and repressive cultures, can we stop the selective adoption of human rights and challenge all states that give lip service to human rights but continue to violate the rights of their citizens, support repressive regimes, or

uphold corporate interests over human rights and dignity. In the Maldives this is evident in the selective applications of Shari'ah penalties in, for example, the case of flogging of women for extra-marital sex, whereas amputation of limbs in the case of theft is not applied.

Human Rights Norms in Practice

On reviewing the literature on international human rights, the five-stage Spiral Model used by Risse, Ropp and Sikkink (1999) in their book, *The Power of Human Rights*, seems best in explaining the internalisation of international human rights norms in the Maldives. It explains the political transition that took place in 2008 to bring about a regime change from an authoritarian and human rights violating state to a more democratic and human rights respecting one. Risse et al (1999) used the five-stage spiral model to study eleven states on their domestication of international human rights norms. The eleven states studied were Indonesia, South Africa, the Philippines, Uganda, Guatemala, Poland, Czechoslovakia, Chile, Kenya, Tunisia and Morocco. Their study suggests that the model is generalisable across cases irrespective of cultural, political or economic differences among countries (Risse et al, 1999: 6).

The spiral model uses a constructivist approach and highlights how a network of domestic and international human rights non-governmental organisations (NGOs), UN agencies and states promoting international human rights norms (known collectively as transnational advocacy networks by Risse et al, 1999) may be able to influence a state's identity, interests and behaviour through particular socialisation processes (Fleay, 2006: 44). It explains the phases a state may go through as it brings about human rights improvements in response to pressures from a network of domestic and international actors. The Risse et al (1999) study concluded that although the timing and duration of the socialisation processes may vary from country to country depending on their specific circumstances, it does not affect the overall validity of the spiral model.

The five-stage spiral model developed by Riese et al in 1999 focus on two core human rights -- the right to life (which is defined as freedom from

extrajudicial execution and disappearance) and the freedom from torture, arbitrary arrest and detention. Although they believed that the other rights included in the UDHR are important, they justify their focus on using only these two rights by claiming that these rights have been widely accepted as universal; they are not rights associated with any particular political ideology or system; and they have been widely institutionalised in international treaties that countries around the world have ratified (Risse et al, 1999). The spiral model also only takes into account one single independent variable (the influence of transnational human rights networks) to explain the dependent variable (changing state behaviour in the field of human rights).

Since the spiral model was developed in 1999, many other researchers have applied the model to countries other than the eleven states studied by Risse et al. Although these researchers acknowledge the model's shortcomings, namely its focus on two core rights as well as the use of a single independent variable to explain changing state behaviour, they do not dismiss it entirely. For example, Fleay (2006) has used the spiral model and applied it China to provide a valid explanation for the changes in the Chinese Government's human rights practices. Shor (2008) used the spiral model to study the human rights situation in Israel and came to the conclusion that the model remained useful for understanding the processes of change in specific human rights violations. Similarly, in Muñoz's (2009) application of the spiral model to Mexico, he acknowledges the relevance of the role of transnational advocacy networks and domestic human rights activists in bringing about human rights changes in the country.

Although the spiral model has been criticised by many authors (Pace, 2001; Schwarz, 2004; Evans, 2005; Marsh & Payne, 2007; and Jetschke & Liese, 2009), for its limitations, none of them dismiss the usefulness of the model in understanding the causal mechanisms that facilitate the internalisation of human rights norms and practices into the domestic political arena. Despite these criticisms, twelve years on from the time of the development of the five-

stage spiral model, it is still useful in explaining what the Maldives is going through in its quest to transition to a human rights respecting state.

According to the spiral model, the first phase is when a state is in a repressive situation, where domestic societal opposition is too weak and/or too oppressed to present a significant challenge to the government (Risse et al, 1999: 22). In some countries, this phase may last a long time as very oppressive governments sometimes do not become the subject of international campaigns by transnational advocacy networks. Gathering information from these countries requires at least some minimal links between domestic opposition and such networks, which could be very difficult depending on the levels of repression in these countries (Risse et al, 1999: 22). This phase is known as the **repression and activation of network phase**.

The Maldives was in a severe repressive situation for a very long period of time. The state of repression was extremely oppressive as any criticism of the Government was met with arbitrary arrest and detention in jail. Given this situation, there was very little or no organised domestic opposition. At the same time, it was very difficult for transnational advocacy networks like Amnesty International, Human Rights Watch or even the International Red Cross, to gain any information on the situation of human rights abuses in the country because they were not allowed to enter. Even when they were allowed in, they were not granted access to the detention facilities or to be able to talk to critics of the Government. Thus, the repression and activation of network phase lasted from the early 1990s till 2003 in the Maldives.

The second phase of the spiral model, known as the **denial phase**, puts the norm-violating state on the agenda of the human rights network. The network then starts to produce and disseminate information about human rights practices in the target state, usually in cooperation with human rights organisations of that state (Risse et al, 1999: 22). The transnational network then lobbies international human rights organisations as well as policy makers and national governments of Western states. The lobbying involves “naming and

shaming” and moral persuasion of Western states to join the network to attempt to change human rights practices in the target state (Risse et al, 1999: 23). The initial reaction of these norm-violating states is almost always one of denial, where the government refuses to accept the validity of international human rights norms and opposes the suggestion that its national practices are subject to international jurisdiction (Risse et al, 1999: 23).

In most countries, during this phase, the government is able to successfully mobilise national sentiment against foreign intervention and criticism, claiming that the very integrity and national sovereignty of the nation is at stake. Any national organisations or groups supporting or sympathising with such sentiments are labelled as “conscious or unconscious accomplices of terrorism” (Risse et al, 1999: 23). According to Risse et al (1999: 24), the denial stage could last for quite a long time, as some repressive governments care little about international pressures, and domestic opposition is still too weak to be able to mount a major challenge to the regime. Very often this attitude is determined by the vulnerability of the particular country to external aid flows such as large scale economic or military assistance.

It was not until 2003, when the incident of the death of Evan Naseem, a young prisoner in Maafushi jail occurred due to torture by prison guards, that there was real pressure from the international community to “name and shame” the Maldives. The incident sparked intense public outrage and gave domestic opposition the impetus needed to start mass protests and demonstrations against human rights abuses by the Government. Accessibility to modern communication technologies such as the internet assisted the opposition movement in getting its message across to international actors. Transnational advocacy networks including Amnesty International, Human Rights Watch and some bilateral development partners expressed concern and indignation over the incident. As mentioned in the second phase of Risse et al’s spiral model, this concern was met with intense denial by the Government. The Maldives had entered the denial phase.

The next phase known as the **tactical concessions phase** is the third phase of the spiral model. During this phase, norm-violating states seek cosmetic changes to pacify international criticism by making some tactical concessions such as releasing a few political prisoners (Risse et al, 1999: 25). These minor cosmetic changes serve the domestic opposition to gain courage and provide them space to mount their own campaign of criticism against the government, both domestically and in the international arena, often claiming human rights abuses (Risse et al, 1999: 25-26). During this phase, the government no longer denies the validity of international human rights norms and begins engaging with outside critics over allegations of human rights violations in the international arena such as at the UN Human Rights Commission.

According to Risse et al (1999: 27), what authoritarian leaders of these countries fail to realise is that the few tactical concessions they make can lead to an unleashing of forces of opposition beyond the expectations of the regime, and the situation can quite often get out of their control. At the same time, critics of human rights violations such as international NGOs increasingly begin to engage with the government more seriously and enter into a true dialogue beginning with instrumental reasons and later over specific human rights allegations (Risse et al, 1999: 28). This leaves very little choice to the government except to start a process of “controlled liberalisation” or be thrown out of power (Risse et al, 1999: 28). This phase is also considered as the most precarious phase of the spiral model because countries at this stage could either move forward to more lasting change in their human rights situation or they could slip backwards and become more repressive (Risse et al, 1999: 25).

In order to pacify criticisms by international NGOs and the Maldives’ development partners, the Gayoom regime made some concessions, including the setting up of the Maldives Human Rights Commission in December 2003. By then the opposition had also truly gained considerable momentum in the country. Furthermore, the 2004 Indian Ocean Tsunami disaster provided an opportunity for a number of international NGOs to visit the country and to talk

to people first hand. Since rebuilding and reconstruction of the country depended on external donor assistance, it also provided an opportunity for Western donors to make demands on the Government to improve its human rights record. This resulted in the country moving to the third stage of the spiral model, the tactical concessions phase.

Phase four of the spiral model or the **prescriptive status phase** is reached when norm-violating states no longer contest the validity of international human rights norms and regularly refer to them in their human rights discussions, even if their actual behaviour continues violating the rules (Risse et al, 1999: 29). According to Risse et al (1999: 29-30), governments are considered as accepting the validity of human rights norms if they ratify international human rights conventions including the optional protocols; institutionalise human rights norms in their national constitutions and domestic legislation; establish human rights institutions and individual complaints mechanisms; denounce human rights criticism as outside interference in domestic matters; acknowledge validity of human rights norms irrespective of who the discussion is with; engage in dialogue with critics; improve human rights practices through training public officials; and apologise to or compensate those whose human rights have been abused.

Risse et al (1999: 30) found that most of the countries studied for their research reached prescriptive status in the period 1985 to 1995 rather than at different periods of time. Thus, they attributed achieving prescriptive status in those countries to international rather than domestic factors, which they called “world time”, and to developments at the global level. These developments included the strengthening of transnational advocacy networks and the increasingly robust global human rights regimes which made it difficult for all countries to deny the two core rights focussed by the spiral model as international human rights norms (Risse et al, 1999: 266).

Although human rights issues had not been talked about in the Maldives between 1985 and 1995, and human rights abuses had not come to the forefront

of international actors until 2003, intense external pressure as well as pressure from both the domestic opposition and from within the ranks of the Government itself, led to the Government ratifying the UN Convention against Torture, and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) in April 2004. In addition, President Gayoom announced his Democratic Reform Agenda in June 2004, and issued standing invitations to all Special Rapporteurs of the UN Human Rights Council to visit the country to study the situation and to make recommendations to the Government. As part of the reforms, Gayoom also allowed the country to move from a no-party to a multi-party system of governance, when it allowed formation of opposition parties in 2005. In September 2006, the Maldives ratified the ICCPR and ICESCR, as well as the first optional protocol for the ICCPR and the optional protocol for CAT. Out of nine core international human rights treaties, the Maldives had ratified eight by the end of 2007. Even though reservations were made by the Government at the time of ratification, and although there was still a lot to be desired for in the domestic implementation of these human rights norms, the country was well and truly into the fourth or prescriptive status phase of the spiral model by then.

The fifth and final stage of the spiral model is **rule-consistent behaviour**, which Risse et al (1999: 31) expected countries to reach if they had attained prescriptive status when continued international and domestic pressure encourage target states to change their human rights practices to reflect international human rights norms supported by the rule of law. This means that domestic laws have to be enacted in target states in line with the international instruments that have been ratified and human rights practices must reflect these norms. The difficulty in this phase is that many international NGOs, international institutions and Western states become satisfied with the target states when they accept validity of international human rights norms and back off, particularly if there has been a regime change (Risse et al, 1999: 33).

Very often when domestic leaders who believe in human rights norms take power, they are unable to implement those norms due to domestic

opposition. If international pressure eases in response to target states decreasing some of their human rights abuses, there is less pressure for the state to further improve its human rights practices which could result in a delay in reaching phase five. Unless sustained international pressure is exerted, a state may not fully progress to the final stage where human rights norms are institutionalised and habitualised into domestic law and domestic practice. Sustained improvements in human rights situations are most evident in countries where there are democratic governments with fully functioning multi-party political systems which have moved towards the rule of law (Risse et al, 1999: 249).

The Maldives is, in fact, probably one of the few countries that had made rapid progress from the second to the fourth phase of the spiral model. By 2008, the Maldives had adopted a new Constitution, and in October that year, held the first ever free and fair multi-party contested elections in the country. This resulted in the Gayoom Government of thirty years being replaced by the Government of Nasheed, who had been a one-time Amnesty International's prisoner of conscience, having been arbitrarily arrested many times, and tortured at the hands of the Gayoom Government. In 2010, the Maldives was also elected as a member of the UN Human Rights Council. Although a number of positive steps have been taken by the country in complying with international human rights norms since 2003 and a regime change had occurred in 2008, reaching the final and fifth phase of rule-consistent behaviour is going to be one of the biggest challenges that the Maldives faces in its efforts at becoming a human rights respecting country.

The spiral model has been criticised for not providing a truly complete picture because of its use of only two core human rights and a single independent variable as well as for ignoring the over-arching influence of great powers (Evans, 2005) such as the United States, Russia and China, especially when they themselves become norm-violating states (Pace, 2001). It has also been criticised for assuming that the socialisation process would proceed in a linear fashion with no backlashes or reversals once transnational advocacy

networks had been established (Jetschke & Liese, 2009). In this sense, the model is said to be naively optimistic and fails to take into account conditions in which it may not apply, for instance in countries where serious conflicts within the country pose threats to full compliance with human rights norms (Shor, 2008).

The spiral model also neglects regime type, and governments' ability to block transnational advocacy networks and international pressure (Schwarz, 2004), where it has been argued that a democratic regime change, and not just any regime change, is necessary at the end of phase three if any lasting and permanent respect for human rights is to occur. Marsh and Payne (2007) also suggest that the model overlooks the fact that the human rights norms that are being spread might be incongruent with different cultures, and that some cultures might not be prepared for the adoption of the complete human rights agenda. Jetschke and Liese (2009) propose that in states such as Russia and China which are political and economic superpowers, or in states that enjoy geopolitical importance such as Pakistan and Saudi Arabia, the overarching power of international human rights norms are weakened.

In the Maldives, the Nasheed Government came into power on a human rights platform and a number of positive changes have taken place domestically both as a result of the regime change as well as the enforcement of the new Constitution in 2008. Arbitrary arrests and detention are now no longer common place. A number of fundamental freedoms such as freedom of assembly and expression are no longer restricted, and a number of independent institutions have been set up to oversee rights abuses.

The new Constitution has also provided for the separation of powers between the executive, the legislature and the judiciary. However, crucial challenges in the form of a weak judicial system, where the judiciary consists largely of appointees by the Gayoom regime, as well as the fact that the new opposition (who are largely supporters of the Gayoom regime) are unsupportive of international intervention in domestic affairs has created an atmosphere where there is room for the Maldives to slide backwards against the

spiral model. Being a small country that is highly susceptible to external pressure from the international community, for the Maldives to reach the final stage of the spiral model of rule consistent behaviour, it is extremely important that both international and domestic pressure is maintained.

Conclusion

From the literature reviewed, it can be seen that human rights have today become an issue of global significance not only in world politics, but also for the Maldives. After the end of the Second World War, the global community had come to the agreement that respecting human rights was paramount to maintaining peace and security in the world. The United Nations was established and assigned the task of developing a global standard for international human rights norms. It developed the International Bill of Human Rights, which has come to be accepted worldwide as international human rights law, an important legal instrument to ensure that governments are held accountable for its actions towards its citizens as well as non-citizens.

Consequently, human rights were taken out of the domestic sphere of nation states and became a regular and well-established part of international relations. Although there is agreement that much of the contemporary understanding of human rights has been shaped by Western Enlightenment thinking and international human rights norms have been negotiated by and agreed upon by a number of stakeholders, there are still on-going debates as to what human rights means for different nation states. Often these arguments are a front for repression and violations of human rights. Of particular significance to this study are the debates on the “Asian values” hypothesis and the debates on Islam and human rights. These debates have made important contributions to the literature on human rights, but there is no literature on how they have contributed to the development of human rights in the Maldives. This study aims to address this gap.

There are other gaps in the existing literature. Most studies on human rights have been carried out by lawyers and have tended to neglect the social

and cultural aspects of human rights abuses, instead looking at the issue from the standpoint of national or international norm violations. Furthermore, there are gaps in the literature on how international human rights are internalised or socialised by different countries into their domestic practice. Risse, et al's five-phase spiral model offers one such explanation. However, this model has its limitations as it only uses two variables. This model can, therefore, be expanded to include other variables which are now universally recognised as international human rights norms.

In the globalised world of the 21st century where rapid economic, social, political, environmental and technological changes make it difficult for states to exist in isolation, what happens in one country has implications for others. With this decreasing impact of state borders and the rising trend of identifying with certain ideological and cultural traditions, more research needs to be carried out to assess their impact on human rights issues.

Repression and denial of basic human rights have plagued many countries in Asia and the Muslim world. As demonstrated by the Arab Spring which began in 2010, and the continuing developments that are occurring in the Middle-East, dissent is often squashed in such countries where the people have no say in how the government is conducted. Giving voice to dissent is one of the most effective ways in helping countries achieve transition from typically repressive to human rights respecting countries. This is what this study aims to do for the Maldives.

4

RESEARCH METHODOLOGY

Introduction

This chapter describes the methodology that was used in this study to investigate the factors that facilitate and inhibit respect for human rights in the Maldives in order to enable answering of the research question. The chapter begins with a summary of my research journey and traces the evolution of the thesis. This is followed by a discussion of the research design and the strategies used to obtain and analyse the empirical data. This chapter also reflects on the overall research strategy before discussing the conclusions.

The Research Journey

When I began this study in October 2007, I was interested in examining the discord between the Maldives system of governance and its people which was leading to increased dissent on the one hand, and increasing human rights violations on the other. With a personal interest in the growing significance of international human rights norms on the global agenda, I was especially curious as to why there was reluctance on the part of the Gayoom Government to bring in democratic reforms in line with 21st century international developments despite the widespread political upheaval and increasing political activism from both within the government and from the opposition. As described in Chapter 1, my professional experiences exposed me to the fact that human rights violations were becoming increasingly commonplace in the country. My former work with FASHAN also made me aware of the sense of hopelessness and despair that some people, especially the younger generation felt, at being unable to make a change for the betterment of their future.

Very little research of any kind was carried out on the Maldives. Prior approval from the Government was essential and, any research which was

critical of policies was not welcomed, making it almost impossible to carry out research of a political nature. However, I wanted to do political research. I was intrigued as to why the Maldives was reluctant to transition from authoritarian rule to a modern liberal democracy. I also wondered about why the Government was unwilling to listen to the people and why it was reluctant to change. At this point, the overarching research aim was to examine the factors that were shaping people's discontent. Although I knew that I could obtain the information that I wanted for my research through directly interviewing members of the growing opposition, I was hesitant to do so as I was a government employee, and also because I knew the risks associated with voicing discontent and being critical of the Government. I had to be extremely cautious in how the research was designed so that it was non-threatening to the Government while at the same time being careful as to minimise harm or risk to both the participants and to myself. For this reason, I chose to use the less-threatening method of photo-surveying (Hurworth, 2003) to elicit empirical information from my participants.

Initially the research was designed so that the participants were to be provided with disposal cameras and asked to take self-directed photographs and to keep a log-sheet of the photographs taken. This was to be followed up with an interview with the participants to discuss the photographs that were taken (Hurworth, 2003; Moore et al, 2008). Participants were to be recruited with assistance from local NGOs working on youth issues using a snowball sampling strategy (Atkinson & Flint, 2001) and the idea was to sample a cross-section of young people exhibiting different types of 'deviant behaviour'.

During my first visit to the field in December 2008 to collect information, the political situation in the Maldives had changed significantly with a change in government just one month prior. For the first time in the history of the Maldives, a democratically elected government was in power, with President Nasheed as its head, a vocal and critical opponent of the Gayoom regime, who had been elected on a platform for human rights and democracy. As planned, I went ahead with recruiting respondents for my research. Although my initial

target was to recruit fifty respondents, I managed to recruit a total of forty participants. After being briefed on the purpose of the research and what was expected of them, thirty-five consented and were issued with cameras. However, ten cameras were returned unused later and only four cameras were returned after the photographs had been taken; but none of these four participants were contactable during the time available in the field for their follow-up interviews after the photographs were developed. Given this scenario, and after considerable reflection, I decided that this was a valuable opportunity for me to reassess my research methods and to revise the overall aim. With the change in government, I could now examine more directly the factors that facilitated and inhibited the Maldives' transition to a human rights respecting nation. Although the overall focus of the thesis remained constant, the research question and the theoretical framework were revised, and this is reflected in the following choice of research design.

Research Design

According to O'Leary (2010), the research design enables a researcher to move from questions to answers. Denzin and Lincoln (2005: 25) suggest that the research design offers a flexible set of guidelines that connect theoretical paradigms first to strategies of inquiry and second to methods for collecting 'empirical materials'. Bryman (2004) suggests that theoretical perspectives that inform a research strategy can be commonly categorised by the relationship between theory and research, ontological issues, epistemological issues, quantitative and qualitative methods, and ethical issues. Based on this suggestion, my choice of research design is discussed in detail below.

In a deductive approach, the principles of a theory are applied to a particular case to see if it fits a predicted hypothesis (Patton, 2002). As opposed to this, in this research, the phenomenon is allowed to emerge through the empirical materials based on the assumption that not all knowledge can be known before their generation (Glaser & Strauss, 1967). This research, therefore, uses an inductive approach. The presumption is that interviewing people that were in some way connected to the research area could provide

answers to the research question. It was anticipated that the interviewees' knowledge of the topic would produce a greater understanding of the factors that affect the Maldives' transitioning towards respect for human rights. Since one of the objectives of this research was to give voice to dissent, the perceptions of the participants were considered as an important starting point, rather than starting with preconceived ideas about the possible answers to the research question through empirical materials gathered from a library search or public and media records.

For the purposes of this thesis, I have taken the ontological position of constructivism. Ontological issues, which focus on what there is to know about the world and the nature of reality (Bryman, 2004), is concerned with the nature of existence of beliefs about what we can know about the world (Snape & Spencer, 2007). In particular, ontology focusses on whether social entities exist externally to social actors (objectivist ontology) or whether individuals are perceived to be socially constructed and dynamic and construct their own meanings of events or situations in the world (constructivist ontology) (Bryman, 2004; Denzin & Lincoln, 2005). Constructivist ontology maintains that social phenomena and their meanings are being continually produced and revised by social actors (Bryman, 2004). On the other hand, objectivist ontology claims that social phenomena such as organisations exist independently of the individuals who occupy it, and rules and structures provide constraints that individuals must abide by so that negative consequences do not eventuate (Bryman, 2004). A constructivist position has been taken as there may be multiple perspectives of individuals on the factors affecting the development of democratic governance and human rights norms in the Maldives. Although the participants were purposefully selected because of their expertise, they might attribute different meanings to the research topic due to their own interactions and understanding of the world (Snape & Spencer, 2007). These differing opinions would, in turn, be further analysed and interpreted by me, as the researcher, through my own interpretive lens.

Using an interpretivist epistemology is relevant for the purposes of this study as I was concerned with understanding how factors affecting human rights respect may be understood, experienced, interpreted and/or produced by individuals or organisations that are associated with or have knowledge of the situation (Marsh & Stoker, 2002). Epistemology is concerned with what we know and how we know it or what may be regarded as legitimate knowledge in a discipline (Bryman, 2004). According to Sarantakos (2005), epistemology can be separated into two main stances, positivism and interpretivism. A positivist epistemology suggests that the social world can be studied as if it was the natural world, which implies that independent and value-free research is possible (Snape & Spencer, 2007). However, interpretivist epistemology suggests the necessity for studying the social world in a way that interprets and understands behaviour from the viewpoint of the social actors (Bryman, 2004). In addition, Sarankatos (2005) suggests that the epistemological stance of positivism is generally linked to the objectivist ontological approach, whereas interpretive epistemology is associated with the constructivist perspective.

An interpretivist methodology assumes that social reality is constructed and negotiated through interactions, relationships and value systems, which are akin to an inductive method. This is what this study sought to do. In this study, I wanted to gain insight and knowledge from a limited number of participants in order to seek an in-depth understanding of what these individuals perceived to be factors affecting respect for human rights in the Maldives. In this way, the participants' experiences and subjective reality are accepted as valid data, contributing to the meaning and understanding of the research area (Ratner, 2002).

I wanted to engage in the study in a more reflexive manner, to draw on my own experiences as well as the experiences of the participants, and to connect with them to understand the significance of the meanings they generate (Corbin & Strauss, 2008; Mason, 2002; Draper, 2002; Breuer et al, 2002). Through my determination of the research question, selection of participants, methods of enquiry, analysis of the empirical materials, and interpretation of

the findings, I am actively shaping both the process and the conclusions of this research.

This research was also based on the use of a more general research question and the use of non-numerical data that is largely descriptive. The purpose of this research was not to test a hypothesis, but to gain a 'thick description' of the ways people understand and attach meaning to the issues at the heart of the research topic (Bryman, 2004; Denzin & Lincoln, 2005). According to Bryman (2004), quantitative research tends to be premised on a positivist epistemology which generally draws on a deductive method and is associated with objectivist ontology. According to Strauss and Corbin (1998), it is usually equated with a 'scientific' approach which emphasise hypothesis testing, prediction, and causal explanations arrived at through statistical or other quantification techniques. On the other hand, a qualitative approach aligns with an interpretive paradigm and constructivist ontological perspectives, and is especially effective for studying subtle nuances in attitudes and behaviours and for examining social processes over time (Babbie, 2004: 307). The strength in this method lies in the depth of understanding it permits, which makes "the world visible" (Denzin & Lincoln, 2000: 3). This was what I wanted from this research into public policy frameworks. Examining the participants' responses enabled me to get an in-depth understanding of their views on the issues affecting respect for human rights in the Maldives. It also made me realise that people see different things, examine through different lenses, and come to different conclusions (Rubin & Rubin, 2005). For these reasons, a qualitative approach was considered as the most appropriate.

In terms of ethical considerations, Bryman (2004: 509) suggests that ethical principles are commonly divided into four main areas of concern. They include harm to participants, lack of informed consent, invasion of privacy, and deception. All of these areas were considered in the design of this research. Since human rights issues were often seen as political in nature in the Maldives, and since political issues were not a topic of discussion in the public domain when I began my research, I had to be careful about the way the research was

designed in order to minimise harm to the participants as well as to myself as the researcher as I was officially a government employee on study leave. I was aware of the sensitive and political nature of human rights issues in the Maldives and the reluctance of people to talk about such issues due to the many years of repression they had experienced earlier and the fear that they felt. Although the Government had changed prior to my first visit to the field to collect data, and even though the situation had changed then, people were generally still reluctant to talk about political issues openly for fear of recrimination. However, as explained above, since my initial attempts at data collection from a random sample of generally disaffected population failed, it prompted me to revise my research methods and to recruit new participants who were politically active, through purposive sampling.

The initial plan was to de-identify the data to ensure confidentiality of the participants. However, as the interviews progressed, many of the interviewees saw my research as a means to document an important historical transition and requested to be identified. As Corbin and Strauss (2008: 29) suggest, sometimes participants want their stories to be out there, and people have a right to let their voices be heard. The participants were given the opportunity to withdraw from the research at any time during the interview process and to also determine the location of the interview. They were fully informed as to the purpose of the research and permission was sought from them to record the interviews.

The Research Process

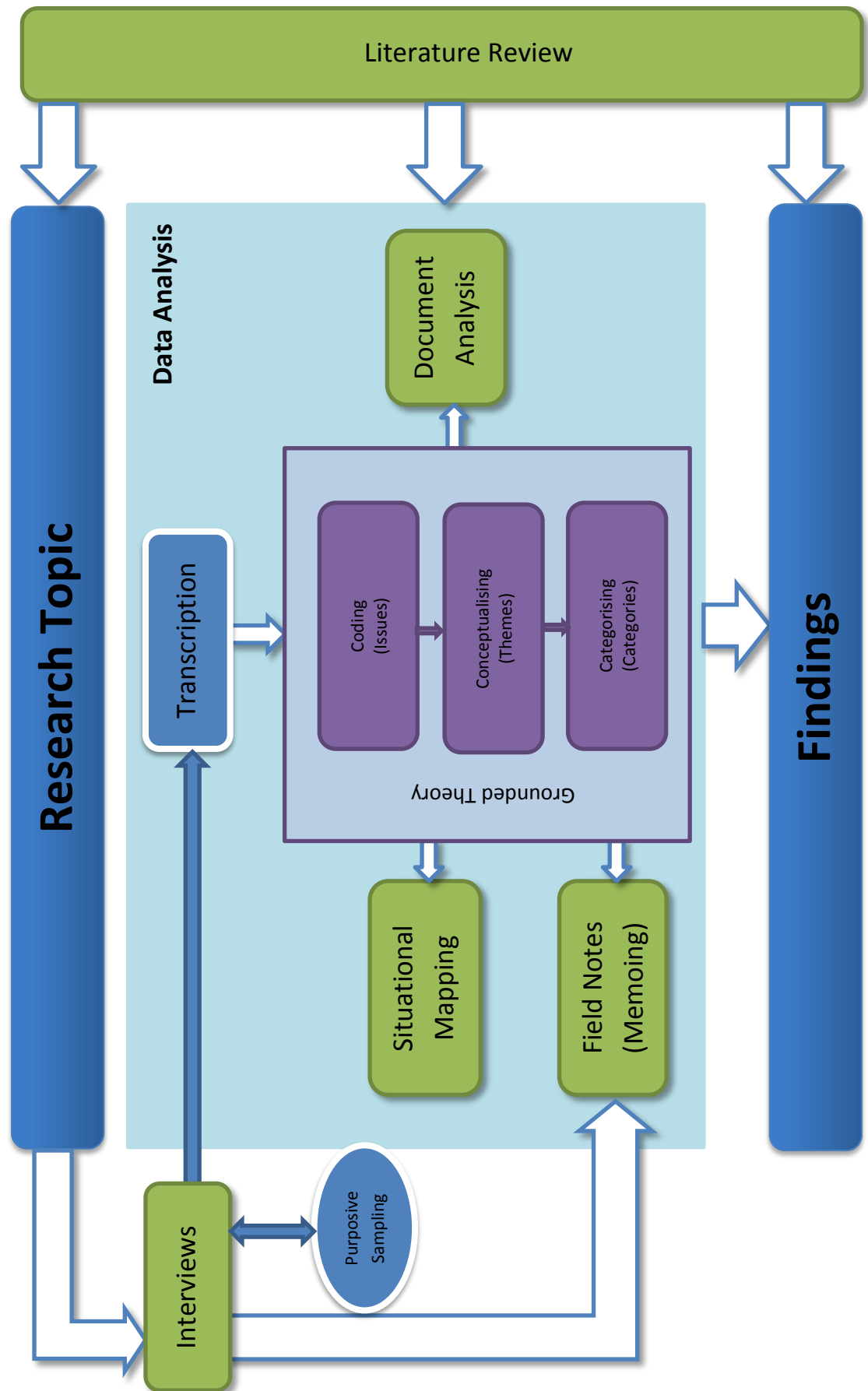
This research uses an adapted grounded theory approach in generating and analysing the empirical materials to answer the research question. In grounded theory research, as in other forms of qualitative inquiry, the researcher is the primary instrument for data collection and analysis. First developed by Glaser and Strauss in 1967, grounded theory is an inductive method of enquiry that allows an understanding of the phenomenon to emerge through data analysis and a literature search that is refined and extended after the data is collected to develop the interpretation (Glaser & Strauss, 1967).

Morse (2009) suggests that the influence of grounded theory is a very powerful tool for the social sciences. It allows the researcher to explicate what is going on or what is happening (or has happened) within a setting or around a particular event, and requires adaptation in particular ways as demanded by the research question, situation, and participants for whom the research is conducted (Morse, 2009: 14). Since grounded theory approach is generally considered useful when studying human action and interaction and when investigating social problems or situations to which people must adapt (Kurzman, 2008), this approach seemed appropriate for the study. According to Cooney (2010), grounded theory is compatible with constructivist ontology. This approach allows for the interpretation and construction of findings jointly by the researcher and the research participants based on the meanings that the participants' apply to events (Charmaz, 2006; Riessman, 2009; Cooney, 2010).

The development of grounded theory, as suggested by Mathar (2008), has allowed qualitative research to be seen as a more credible research methodology than it once was perceived by researchers. By using grounded theory in this study, it has allowed for the recognition of the influence of macro-social factors and acceptance that reality cannot be fully known, but is interpreted and is linked in time and place (Annells, 1996). Qualitative researchers can draw on a number of sources such as documentation and archival records, interviews, observations and examination of artefacts for gathering empirical materials (Denzin & Lincoln, 2005). Empirical materials used for the purposes of this research included informal conversational interviews, government and UN publications, newspapers, online blogs and social media websites such as facebook. As Turner (2010: 754) suggests, often times, informal conversational interviews are coupled with these other forms of data collection in order to provide the researcher with a well-rounded collection of information for analysis. One of the techniques used in the analysis of the empirical materials was to capture commonalities across individual experiences. According to Polkinghorne (2007), this validates knowledge claims about human experiences. The following sections detail how the research

was carried out. For a diagrammatic representation of the research procedure, see Figure 1.

Figure 1: The Research Procedure



One of the main strategies for this research was the conducting of individual interviews with participants purposively selected for being actively involved in voicing dissent on the human rights situation in the Maldives. Glaser and Strauss (1967) suggest that this sampling approach has the goal of developing a rich understanding of the dimensions of a concept across a range of settings and conditions. They suggest that the initial decision for sampling should be based on the general subject area and does not require lots of cases, only a few to confirm the indication (Glaser & Strauss, 1967: 30). According to Coyne (1997) the researcher must have some idea where to sample, not necessarily what to sample for, or where it will lead. This study used purposive sampling through a snowballing technique (Patton, 2002) to recruit additional participants for the interviews. This fitted in with the grounded theory approach.

Since the main concern of this research was to develop an understanding of the factors that promote and hinder human rights development in the Maldives, I initially chose a purposive sampling of people who had been actively involved in fighting for a change in government policies towards human rights and who were involved in the opposition movement during the Gayoom Government. They were selected because they had been highly critical of the Government's human rights abuses. Some of the participants had personally experienced human rights abuses themselves through their involvement in opposition activities. As the interviews progressed, initial data began to yield concepts, which highlighted certain gaps and the need for recruiting additional respondents to address those gaps (Glaser & Strauss, 1967). For this reason, additional respondents who had been active in the political arena, such as Members of Parliament and past government officials were recruited. I believed that their practical experiences and knowledge could provide valuable input into the data. This process of recruiting respondents continued until the initial data comparisons indicated that the core categories had been saturated and no new leads were generated (Glaser & Strauss, 1967).

The interviews were conducted from April to May 2009 during my second field visit, using informal conversational interviews (Patton, 2002).

Patton (2002) suggests that informal conversational interviews, sometimes referred to as 'ethnographic interviews', are the most open-ended approach to interviewing and that it is a major tool of fieldwork. No specific questions were asked, but instead, I relied on the interaction with the participants to guide the interview process (Patton, 2002; Turner, 2010). I did not know beforehand what was going to happen or what was going to be asked, but my aim was to ask questions to learn more about the social setting rather than ask a predetermined set of structured questions (Turner, 2010). My keen interest in the research topic as well as my professional experiences allowed me to be sensitive to what the participants were saying. It enabled me to gain an insight into the data, to pick up on relevant issues, events, and happenings and allowed me to draw upon accumulated knowledge during data analysis (Corbin & Strauss, 2008).

The informal conversational interviews gave me more flexibility than the more structured interviews using interview guides and this was the reason for my choice of an informal conversational approach in this study. Based on the interviewee's nature and priorities, I was able to adapt the questioning as the interview proceeded. It allowed me to interact freely with the respondents, to modify and adapt questions to the respondents' situation, and to assist respondents in formulating a response (Biemer & Lyberg, 2003). Each new interview built on those already done, expanding information that was picked up previously, moving in new directions, and seeking new elucidations and elaborations from various participants (Patton, 2002). The data gathering process was constantly modified as the study progressed, allowing me to direct and redirect the interview questions to obtain relevant data that could answer the research question. As data was gathered, I could not separate my views from the respondents'. My reality shaped much of the research process, making it subjective rather than objective. As Roderick (2009) suggests, I was open to challenging my worldview and comparing my beliefs with the incoming data. According to Turner (2010: 754), often times, informal conversational interviews are coupled with other forms of data collection in order to provide the researcher with a well-rounded collection of information for analysis.

The interviews were conducted in the capital island of Malé, which is the location for most political, economic, social and cultural activity. It is also the location for more than a third of the Maldives' population. A total of 25 interviews were conducted. Of these, 13 interviews were conducted with MDP activists and dissenters, while the rest of the 12 interviews were conducted with policy makers in the Gayoom Government and law makers. One group interview was held with a team of four police officials. Permission was sought from all respondents to record the interviews. All interviews were recorded digitally, which assisted me in the initial conceptualisation, carried out in the field through playing back and listening to the recordings and making field notes.

Field notes were made during the interviews to identify important issues and clarifications needed to guide me in further interviews. Observations were also recorded as field notes during the entire research process. Once I returned from the field, all interviews were transcribed into word documents for analysing. Although the majority of the interviews were conducted in English, a few had been conducted in Dhivehi. These were translated into English as they were being transcribed. I then backward-translated them to Dhivehi to ensure that it was a fair and accurate translation (Regmi et al, 2010).

Once the interviews were completed, the process of analysing the collected data began. Interviews were transcribed and the transcripts were coded, interpreted and subjected to several cycles of analysis to come up with the different themes and major categories. A review of relevant literature informed the data coding and analytical process. The data was analysed by adapting grounded theory methods for coding, conceptualisation and categorisation (Strauss & Corbin, 2008). According to Strauss and Corbin (1990: 23), grounded theory is inductively derived from the phenomena it represents, and is discovered, developed and verified through systematic data collection and analysis of data pertaining to the phenomenon. As the data was being coded, conceptualised and categorised, ideas that occurred were memoed in the field notes. Similarly, using Clarke's (2005) suggestion, situational mapping of

the coded data was carried out at each stage in order to ensure that the symbolic meanings were not lost in the interpretation. Memoing and field notes, as well as situational mapping, together with a review of the literature, assisted in the final write-up of this research.

For this research, it was important that the voices of the participants be heard. As such, the interviews were my primary sources of data. However, Bryman (2004) identifies the advantages of using secondary sources of data. Document analysis was therefore used to complement the primary data from the interviews. Drawing on data from secondary sources enabled triangulation as well as conceptualising and theorising. According to Patton (2002), triangulation helps the researcher guard against the accusation that a study's findings are simply an artefact of a single method, a single source, or a single study. In this research, the interview data was supplemented through the use of government and international reports as well as media reports, including online newspapers, internet blogs and the social media. Material was gathered from known sources which represented differing viewpoints in order to mitigate any overly partial interpretation to assist in validating its authenticity (Bryman, 2004; Sarantakos, 2005). Although this additional data was not created specifically for the purposes of this research and some aspects of the documents were not relevant or comprehensive in addressing the research area, it helped to supplement and contextualise data collected through the interviews (Bowen, 2009). Document analysis also helped in verifying the findings and to corroborate the evidence gathered from the interviews (Bowen, 2009).

According to Corbin and Strauss (2008), qualitative data or empirical materials are inherently rich in substance and full of possibilities, making it possible for more than one story to be derived from them. The analysis of the materials was a dynamic, intuitive and creative process of inductive reasoning and thinking where I drew on first-hand experience with the setting, informants and documents to interpret them (Bosit, 2003). Analysis of the materials determined categories, relationships and assumptions that informed the respondents' view of the world, in general, and of the topic, in particular

(McCracken, 1988). While each person experiences, gives meaning to, and responds to events in the light of his or her own biography, gender, time and place, cultural, political, religious and professional backgrounds (Corbin, 2009), it was my responsibility to make meaning from the data and to construct knowledge from it. For the purposes of this research, government reports as well as reports on the human rights situation of the Maldives by various international agencies such as the UN, Amnesty International and US State Department were consulted to understand the different ways in which meanings were assigned by the respective authors. In addition, both pro- and anti-government newspaper articles and internet sources such as blogs and facebook were monitored throughout the research process to understand different interpretations of the various issues that were of relevance to the research question.

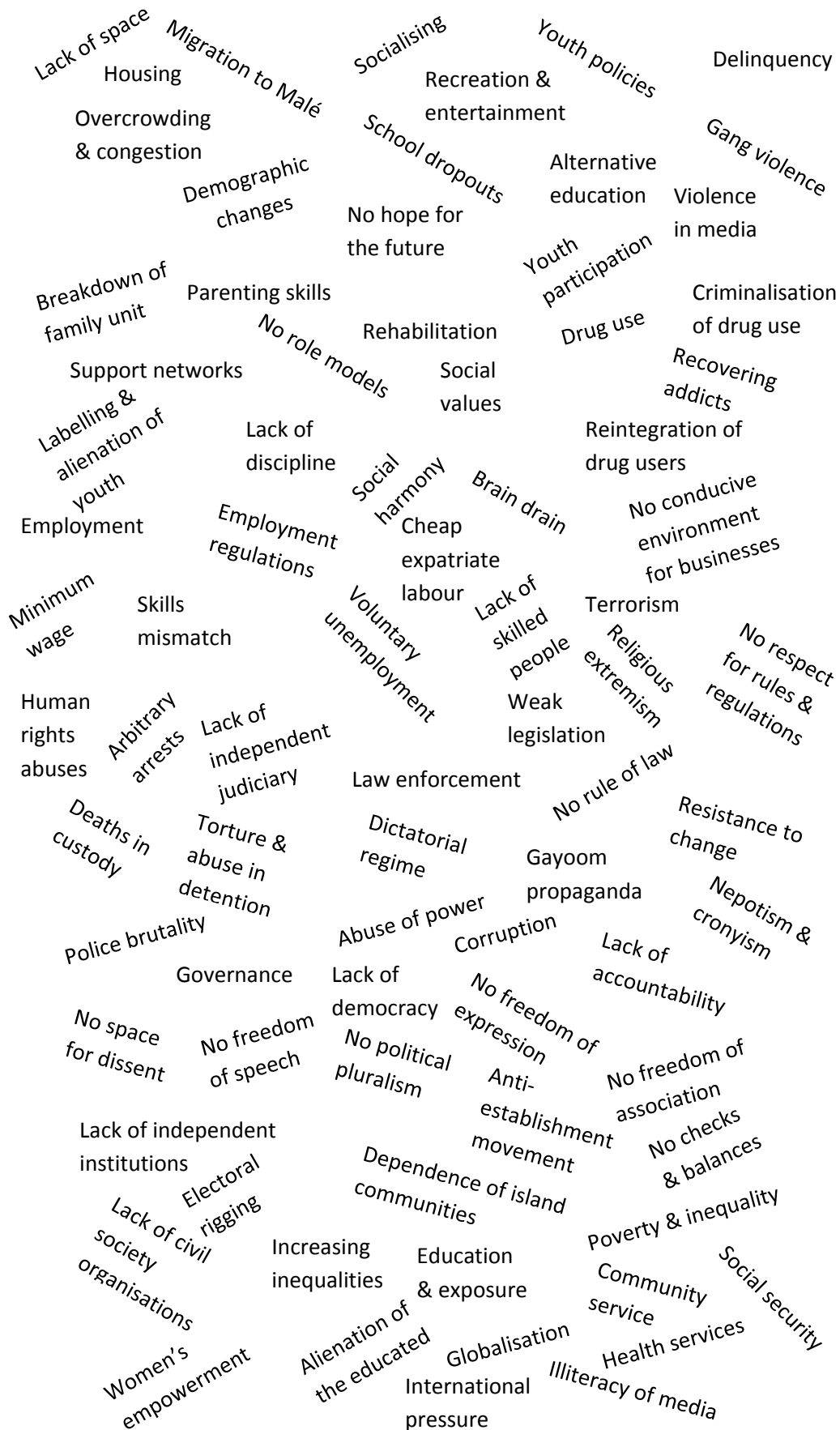
The Analytical Process

In this research, analysis of the empirical data occurred at various stages of the research process. As mentioned earlier, during my analysis of the early interviews, it became apparent that MDP activists were over-represented and I was hearing only one side of the story. In order to try and bring a balance, previous Government officials, law makers, and senior officials of major political parties were recruited as respondents to the study.

Coding of the interview transcripts was done manually, reading the text and analysing it line by line. Codes are defined by Saldaña (2009: 3) as “a word or phrase that symbolically assigns a summative, salient, essence-capturing, and/or evocative attribute to a portion of language-based or usual data”. With these pieces of data, using my personal experiences, I worked out what I thought were the key issues or problems. This corresponds to open coding in the Straussian grounded theory approach. Various pieces of data were constantly compared within and between participants, looking for similarities and differences. During this process, certain respondents’ biases stood out in the data, which I then noted in my field notes. From the 25 interview transcripts, I came up with 80 different codes or what I called “issues”. Some of

these issues were quite similar, but at this stage, I kept them as they were identified, without combining them. The reason I did this was because I wanted to keep the issues as they were quoted by the participants. See Figure 2 for a messy situational map (Clarke, 2005) of the issues that were identified.

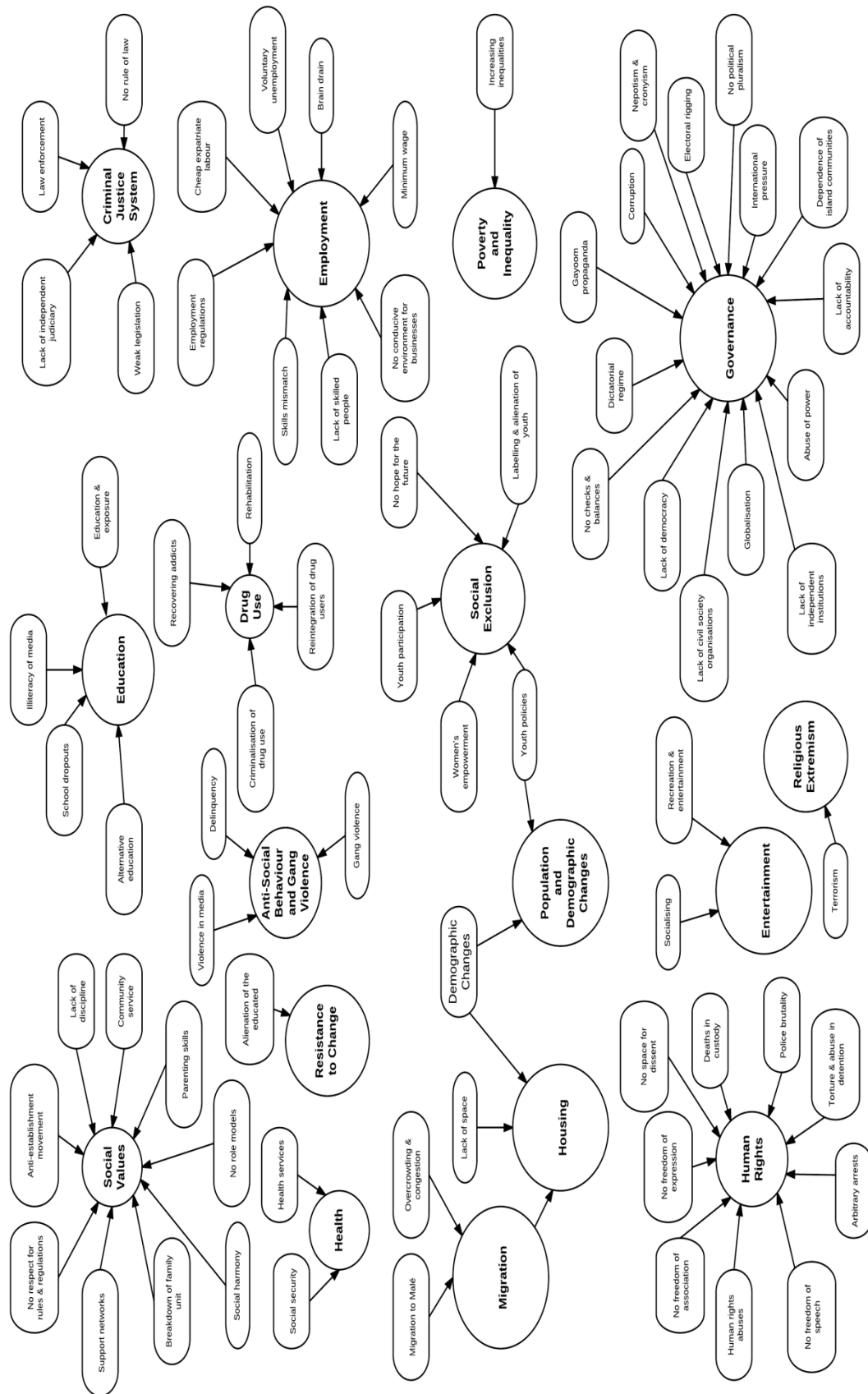
Figure 2: Issues Identified



At the next stage, I made a list of all the issues that were identified by each participant, which I then tried to group together into concepts, that I called “themes”. The data was scrutinised to try and understand the essence of what was being expressed in the interviews. After considering all the possible meanings and examining the context carefully, I thus assigned interpretive conceptual labels to represent the ideas contained within (Corbin & Strauss, 2008).

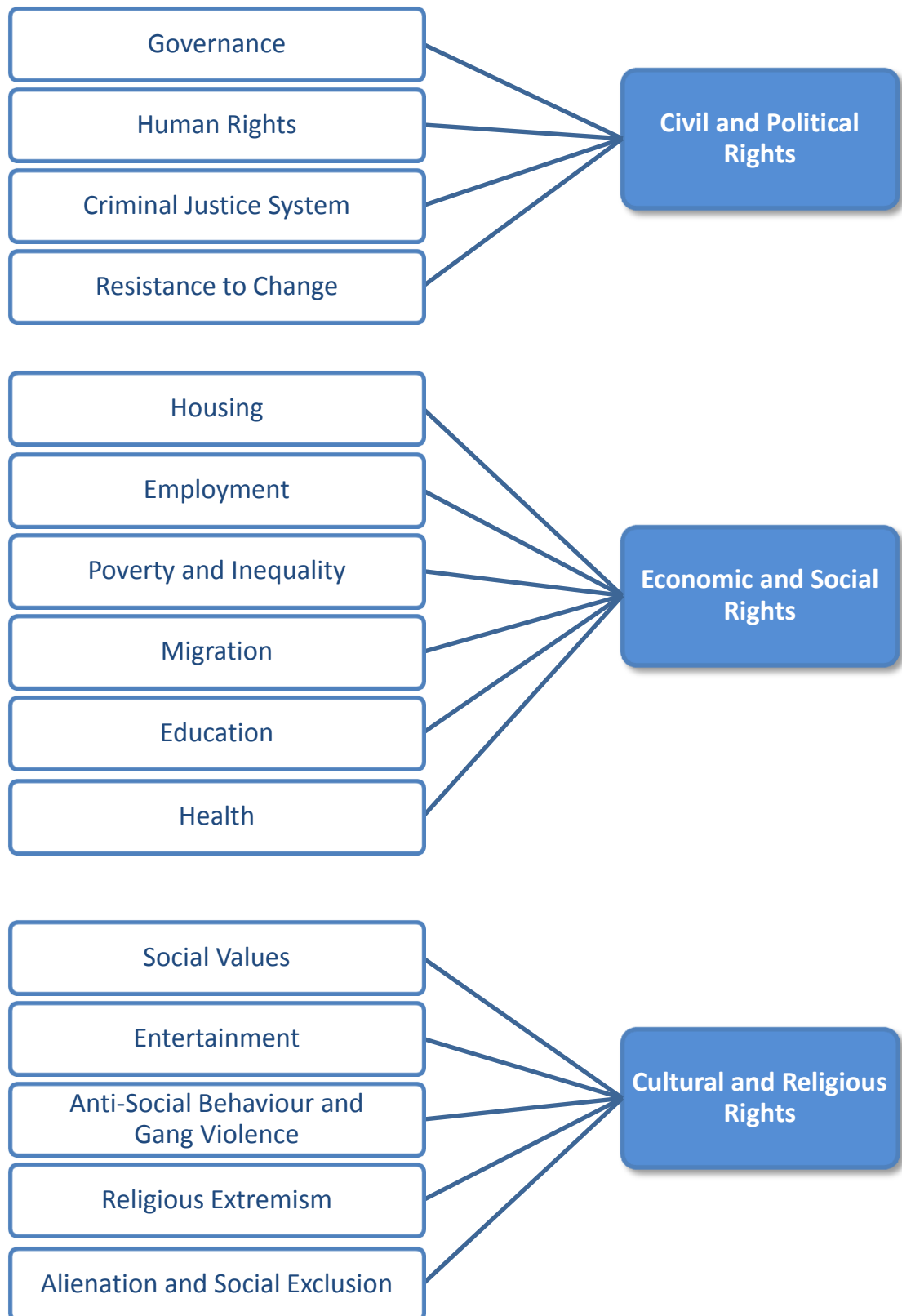
Some concepts or themes were easy to come up with as they were used by the participants. This stage could be described as the axial coding stage in the Straussian approach. According to Kelle (2005) axial coding is a set of procedures whereby data are put back together in new ways after open coding, by making connections between the different codes. During this stage, relevant phenomena were collected to find commonalities, differences and patterns to suit the data. Once each participant’s list of issues were conceptualised into themes, I created word files for each theme, and then added the exact quotes from each participant’s interview corresponding to each theme into the appropriate word file. Some quotes had to be repeated under more than one theme. The 80 issues identified earlier, were conceptualised into 17 themes. See Figure 3 for the themes that were identified.

Figure 3: Themes Identified



Once the themes were identified, an extensive review of human rights literature was carried out before moving on to the next stage of data analysis. This stage is the selective coding stage in the Straussian approach. This is the stage where the themes which had emerged from conceptualisation were theoretically sorted into “categories”. The categories were developed in terms of their properties, dimensions and relationships, where integration occurred at a more abstract level of analysis (Walker & Myrick, 2006). For the categories identified, see Figure 4. By saturating the concepts into core categories that seem to have the most explanatory power, I was able to present the theoretical essence of the substantive area which was the human rights situation in the Maldives. This was the stage where the data was looked at using a macro lens (Walker & Myrick, 2006) and taking into account the national and international context for human rights norms.

Figure 4: Categories Identified



Reflections on the Research Strategy

In keeping with the interpretive approach, as Bryman (2004) suggests, it is appropriate to offer some reflexive comments on my experience with this research. Reflexivity entails sensitivity to the researcher's cultural, political and social context and is always a reflection of the researcher's location in time and social space (Bryman, 2004: 500). A number of significant developments in the Maldives, as described earlier, have impacted on my research journey. On closer scrutiny of both the coded data and the transcripts, it became obvious that only first and second generation human rights were focussed on by the participants and hence represented by the data. This was noted in the field notes, for use later during the write-up stage. Another significant discovery at this stage was the fact that although the interviewees were reluctant to speak about issues concerning religion, the additional empirical materials gathered indicated that issues related to religious rights had a significant impact on the enjoyment of other human rights in the Maldives. Both these facts were noted or 'memoed' as suggested in grounded theory terminology. The latter observation was the reason for having a separate chapter on religious and cultural rights in presenting my findings, even though the literature indicated that they were only one part of first and second generation of rights. Furthermore, although the issue of climate change and its impact on the Maldives' population are a significant part of their everyday lives (MEE, 2011; MFA, 2008), none of the participants mentioned this in my interviews as an issue of concern for them. However, documentary analysis showed that it was an important issue of concern for the government as well as the media, and one which could have considerable implications for the very survival of the Maldives' population.

Throughout the data analysis process, in addition to using the basic Straussian approach to coding and constructing theory from the data, I was conscious of both Charmaz (2006) and Clarke's (2005) suggestions of making this research relevant to the 21st century by giving it a postmodern turn, implying that there is no truth and everything is a construction. I have attempted to do so in this research by including elements of subjectivity, by attention to multiple voices, and by my own and the research participants'

positionalities, while at the same time, considering both human and non-human elements that interplayed on the situation and the context of this research. My professional experiences, described in Chapter 1, were a distinct advantage in eliciting information from participants in the field. This experience facilitated the understanding of some of the more subtle issues in the study. As the research was carried out at a very crucial, but volatile period of transition in the history of the Maldives, situations were constantly evolving and developing as this thesis was being written.

Conclusion

This chapter detailed the methodological framework and the research design used to achieve the outcomes of this study. This research was designed on a constructivist approach, using qualitative methods drawn largely from grounded theory methodology. The research used inductive and analytical reasoning to construct a human rights framework for the Maldives using inferences from the empirical materials gathered.

Informal conversational interviews with activists, dissidents, policy makers and law makers were used to collect data through purposive sampling. Data was analysed using a Straussian approach which allowed conceptualisation and categorisation as well as theoretical sensitivity to the data. Both technical and non-technical literature was consulted extensively, and these together with observations by the researcher were used to help with the final writing up of the thesis.

The findings from this study are presented in Chapters 5, 6 and 7, and attempts have been made to give the participants of my research a voice through this study. The significance of the continuous developments in the field could not be ignored in doing a political study of this nature at this particular time, when the country was going through an important political transition from a long history of autocratic to a more democratic rule. The final outcomes from this research are presented in Chapter 8 as conclusions from this study.

5

CIVIL AND POLITICAL RIGHTS

Introduction

In this chapter I present and discuss the findings related to first generation human rights, namely civil and political rights that were identified by my interviewees. As discussed in Chapter 3, first generation rights consist of the right to life, liberty, and security of the person; the prohibition of torture; the prohibition of arbitrary arrest, detention or exile; the right to a fair trial; freedom of movement; freedom of thought, conscience and religion; freedom of opinion and expression; freedom of assembly and association; and the right to participate in the government of one's country. Civil and political rights are considered to be core rights indispensable to human dignity, and legally, these rights require absolute protection rather than simply realisation. Using the International Bill of Human Rights described in Chapter 3 as a guiding principle, and using grounded theory methodology as described in Chapter 4, I present the findings from my data. Informal conversational interviews through purposive sampling were used to gather information from the participants in this research. Grounded theory methods were adapted to code, conceptualise and categorise the empirical materials gathered. The findings from my data are presented and discussed under the following four broad themes: governance issues, fear and intimidation, failure of the criminal justice system, and Government's resistance to change. Where possible, I have included the quotes from the transcribed interviews so as to give my respondents a voice through this research.

In the Maldives, until the ratification of the new Constitution in August 2008, civil and political rights were fairly restricted and depended much on the omnipotent presence of the Office of the President. The President is elected not by the people, but by a majority of the parliament and the people participate in a referendum-type 'yes' or 'no' vote on the choice of candidate selected by the

parliament. Only a male could contest for the presidency until the 2008 Constitution. The President was also the *de facto* head of the judiciary since he appointed the Attorney General and the judges, and had powers to issue presidential decrees in areas of criminal justice and law. Arbitrary arrests increased from the 1990s and basic guarantees of due process were often bypassed. Until recently, public gatherings of more than three persons, without a prior two-week notice were considered illegal.

Although there are no restrictions on the freedom of movement for locals, the geography and the sea-locked nature of the country made this difficult. During the Gayoom regime, foreigners were severely restricted in their movement as they could not visit inhabited islands without prior Government approval. According to the Constitution, Islam is designated as the official state religion, and many laws severely restrict freedom of religion. Freedom of association was restricted until 2005, and oppression and intimidation of political opposition as well as any form of dissent was common under the Gayoom Government. Political rallies were routinely followed by mass arrests and detention. Police brutality especially of the riot police (Star Force) was common and they were well known for their abuse of human rights and inhumane treatment of detainees. The media was largely government controlled and journalists were under constant threat of being arrested, charged or detained. New media, especially the internet, became a useful tool for the rising domestic oppression. Activism in response to patterns of severe oppression had been spontaneous and courageous. The last few years of the Gayoom Government were characterised by accession to international human rights treaties, but implementation of these standards was weak and needed sustained domestic, regional and international activism and advocacy.

My field work was carried out at a time of immense political upheaval and change in the Maldives. President Gayoom, Asia's longest-serving ruler, conceded that his thirty-year rule of the Maldives had come to an end in October 2008 in the first ever democratic elections. With this brief outlook on the then

existing civil and political rights situation of the Maldives, I now turn to the findings from my research.

Governance Issues

As described in Chapter 4, my study participants were recruited from activists and dissidents during the time of the Gayoom Government, ministers and senior policy makers of Gayoom's Government, as well as law makers. Almost all of my study participants cited governance issues such as the lack of comprehensive policies, lack of participation in decision-making, the authoritarian system of government, corruption and lack of accountability as the reasons why they thought that people, especially young people, were unhappy with the Government and why they had wanted a change.

The term governance here is used to refer to the exercise of economic, political and administrative authority to manage a country's affairs at all levels. It comprises mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences (UNDP, 1997). Since the early 1990s, good governance had become an important part of the international development agenda. The UN system in the Maldives, as part of its Rights to Development agenda, had been pushing for reforms in the system of governance in the Maldives, keen especially to decentralise how the atolls were governed. According to Weiss (2000: 801), governance encompasses all the structures and processes for determining the use of available resources for the public good within a country. Good governance then is more than multi-party elections, a judiciary and a parliament, which have been the primary symbols of Western-style democracy. It includes universal protection of human rights, non-discriminatory laws, efficient, impartial and rapid judicial processes, transparent public agencies, accountability for decisions by public officials, devolution of resources and decision making to local levels from the capital, and meaningful participation by citizens in debating public policies and choices (Weiss, 2000).

In the Maldives, prior to the change in government in 2008, human rights protection was almost non-existent. With the National Security Services (which included the armed forces and the police until the police became a separate civilian force in September 2004) having discretion of detaining and arresting any person, and a judiciary that is not independent from the executive, discriminatory practices were common. There was no use of formal legal precedent and hence no impartiality (ACHR, 2006). Judges have discretion to extend the period of detention and rapid judicial practices were not the norm. Although the law provided penalties for official corruption, the laws were not implemented effectively, and officials engaged in corrupt practices with impunity (US State Department, 2009). According to some of my respondents, it was an absence of these good governance measures that moved many of them into action, becoming activists and coming out on to the streets to demonstrate against the Gayoom Government in order to bring about a change. Many of them believed that the people of the Maldives deserved better and that it was not alright for them to be in the conditions that they were, given the overall positive socio-economic indicators of the country.

After thirty years of continued economic growth and improvement in many of the social indicators such as infant and child mortality rates, educational enrolment rates and literacy rates, people in the outlying island communities had little or no say in policies which affected them, while decisions were being made on their behalf by the Government ministries and departments in Malé without consulting the communities. Government used a top-down approach in the way it conducted its business. The lack of consultation with the atoll and island communities in addressing their individual needs was becoming increasingly unacceptable for some people, especially those who were from islands other than Malé. This became more obvious to those who have had the opportunity to travel abroad and to experience personally how effective decentralised decision making was in these countries. They realised that they could achieve much for the development of their islands, if they did not have to wait around for hand-outs from the Gayoom Government once every five years when it was time for the presidential

elections and he needed their votes. This drove some of them to become vocal critics of the Government and to stand up for the people, even though it was a very risky thing for them to do at that time. As mentioned earlier, during the past, up until the first democratically elected government took over office in November 2008, voicing dissent or criticising government policies was considered a criminal offence in the Maldives, liable to persecution and incarceration in jail.

One of my interviewees was from the southern-most Addu Atoll and came from a wealthy family. He had been sent to Malé by his parents at the age of 7 years to attend school. He was very frustrated at the lack of development of his atoll and had become an MDP (Maldives Democratic Party) activist and a vocal critic of the Government. This is what he had to say when asked about his role as an MDP activist.

I think the people of this country deserve better. That is truly what I think. I knew the risks and I knew the consequences of becoming an activist, but I was just taking it one day at a time and I just didn't think of the consequences. With certain things you just don't think that long or plan for too long (Ali, prominent businessman and MDP activist).

As another interviewee pointed out, the Maldives had an extremely paternalistic type of government.

Everything that is done in the community is done by the President. The President gives a generator, the President gives a harbour, and the President gives a school, everything (Bari, Policy Secretary in Nasheed Government).

Chapter 8 of the 2008 Constitution provides for the establishment of a local governance system with the aim of strengthening local democracy and addressing the economic and social development issues arising from a highly centralised government. Although the Nasheed Government proposed a Decentralisation Bill to the parliament in 2009 aimed at delegating and

devolving centrally controlled functions including service delivery to the island, atoll and province levels through Island Councils and Atoll Councils in each province, and an elected City Council in the capital, Malé and in Addu Atoll (DER, 2009), lack of partisan support meant that the bill was not passed as proposed. The revised bill resulted in unnecessary financial burdens to the Government and delays in bringing the government closer to the people.

According to the World Bank (1994), good governance is epitomised by transparent processes of predictable, open, and enlightened policy making; a bureaucracy imbued with professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; and all behaving under the rule of law. In the Maldives, with little public participation at the community level, services were biased in favour of the 'well-connected' few at the expense of the large majority and the poor. There was no transparency or accountability in service delivery. As Baiocchi et al (2008) suggests, civil society mobilisation and participation plays an important part in participatory democracy and is a critical countervailing force to elite domination. However, in the Maldives, the civil society is very weak and underdeveloped, and there has been limited involvement of the civil society in governance, with no incentives provided by the Government for their inclusion or participation in the development agenda. This was pointed out by one interviewee, who felt that a fully functioning civil society is essential in a democratic society.

We understand that there is no way we can do things without a civil society. This country does not have a civil society (Hamid, MDP MP).

In the past, the Government had not encouraged the growth of civil society groups in the Maldives for fear that they would raise issues of the Government's abuse of power. In democratic countries, however, civil society groups play a major role exposing the role of corrupt officials and lobbying for good governance. There was also very little or no involvement of young people in the government decision making process, even though they comprise over 42

per cent of the Maldives' total population. Not only were young people not involved in decision making, but there were also no comprehensive policies targeted at young people.

As explained in Chapter 2, from the late 1970s, under the leadership of President Gayoom, the Government had been run by a group of Al-Azhar graduates, who were a 'different generation' from the bulk of the young people that made up the Maldives' population. Under their leadership, they had put Islam at the centre of politics and initiated an Arabisation programme which was totally alien to the mostly Western-educated young people in the country. The Gayoom Government placed emphasis on visible projects such as infrastructure development projects, rather than trying to address social issues such as drug use and gang violence which affected young people the most.

It is one of the failings of the previous Government that they did not see the population pyramid taking this shape. And it is one of their failings that they did not realise that with the changes in the population pyramid, several other social issues related to youth would appear on the horizon. If they had worked to prevent this, it would have been so much better. But now these problems have appeared and they have taken root and they are slowly becoming cancerous (Nasheed, independent MP).

Frustrations and concerns at the lack of fundamental freedoms were expressed by a number of respondents. As some interviewees explain, they began noticing this after their return home from spending time overseas studying. They compared their overseas experiences with their experiences back in the Maldives. While overseas, they had witnessed governments in other countries working together with the community and the business sector to address developmental problems. This was a frustration I shared with my participants as I have explained in Chapter 1. As Sloam (2007) suggests, denying people the opportunity to express their opinions and preferences leads to discontent with the core institutions and frustrated ambition and their pride in being outside the system. In the Maldives, the Government seemed to work in isolation, which created tensions and frustrations for people who had returned

from their studies overseas, with hopes and expectations of being able to contribute towards making a positive change in their community. This is how one interviewee expressed his frustration, explaining why he became an opposition activist.

As soon as I came back I felt stuck. I had been in the UK for about seven years and when I came back to Malé I felt really restricted and constrained. I just did not see any future, and it went on like that for a few years (Ziyad, MDP activist).

O'Toole et al (2003) and Li et al (2003) suggest that when young people increasingly saw themselves as distanced from the government and politics and increasingly viewed the provision of housing and jobs as their own individual responsibility, they become 'socially excluded' or trapped in a 'cycle of disadvantage' with little stake in the society. As some interviewees suggested, when educated young people returned from their studies overseas and joined the Government and gave good suggestions for the development of the country, those suggestions should be taken into account by the Government. Unless this was done, more and more young people were going to withdraw their participation in the political sphere.

Unless the Government [meaning President Nasheed's Government] rectifies these very serious issues we have very quickly and in an inclusive manner, I think most of our youth would get disillusioned (Nasheed, independent MP).

According to Roth (2009), few governments want to be seen as undemocratic, but in many countries, including the Maldives, although governments master the art of democratic rhetoric, it bears little relationship to their practice of governing. During Gayoom's presidency, as explained in Chapter 1, after the Evan Naseem incident in September 2003 sparked domestic as well as international pressure for reform, the Government announced the Maldives Democratic Reform Agenda 2004, which stated that Maldives would work towards democratic governance, ensuring compliance with international

human rights standards. However, as was evident from my data, the techniques used by the Gayoom Government were simply contradictory to human rights principles that give democracy its meaning. Electoral fraud, political violence, press censorship, repression of civil society, and non-compliance of government officials to the rule of law meant that the people had no popular say in Government (Commonwealth Secretariat, 2005). The Gayoom Government from 1978 to 2008 was seen by many as autocratic and dictatorial. This was reiterated by the head of the Maldives Human Rights Commission.

The Maldives had a very dictatorial regime in the past and people have been taken in for questioning indiscriminately. There is hardly anyone in the community who has not been taken in for questioning. In that case all of us are criminals. Everyone should be treated innocent unless and until they are proven guilty (Saleem, Human Rights Commissioner).

In terms of civil and political rights, especially in the conduct of elections during Gayoom's regime, the local population were well aware what a farce the elections really were. A review of the Maldives' electoral laws, regulations and other related legislation, procedures and administration mechanisms (Turner, 2005) revealed that there was a general lack of transparency and a number of flaws in the electoral process. As Roth (2009: 144-145) suggests, all democracies worthy of their name have certain common characteristics, including periodic competitive elections that are freely held as well as transparently and accurately tabulated, a meaningful array of political parties, independent media outlets, civil society organisations that give citizens, including minorities, a broad range of opportunities to band together with others to make their voices heard, a legal system that ensures that no one, and especially no government official, is above the law. But, as he suggests, a number of dictators are eager to legitimise themselves on the cheap, and if they can get away with a sham election, they will (Roth, 2009). In the Maldives, elections in the past were held merely to feign compliance with the local laws which called for presidential and parliamentary elections once in every five years (US State Department, 2009). With the new Constitution of 2008, and after the change in government in November 2008 when Gayoom lost the

elections to President Nasheed, the people were more hopeful. Article 26 of the new 2008 Constitution provides the right for every citizen over 18 years of age to vote. This was the first time that the voting age had been reduced from 21 years to 18 years (Hussain, 2008). The new Constitution also called for the establishment of an independent Elections Commission who were able to hold free and fair elections (Hussain, 2008), which made the people realise for the first time that their votes actually counted. One interviewee, a senior official in the current Government spoke of the change.

At least now there is a change because now there is no possibility of rigging the vote. But during Gayoom's presidency, rigging the vote was just one thing. Having secret agents and secret police was another. The whole system was designed in such a way that in the local communities everything was done his way. Everything was designed so that he stayed in power (Bari, Policy Secretary in Nasheed Government).

Bar-El (2009) also suggests that the characteristic feature which distinguishes dictatorial regimes from democracies is the use of repression and restrictions on formal political competition in order to stay in power. The Gayoom Government's reluctance to allow pluralistic democracy in the country characterised a dictatorial regime in the Maldives. Even though there had been a number of positive developments in terms of the Maldives socio-economic growth, as explained in Chapter 2, there was reluctance on the part of the Government to bring in democratic changes in how the country was governed. This is how one interviewee described it.

I think Gayoom having been in power for thirty years had the moral obligation. The weight of morality was that he should bring about meaningful change. He has brought about an amount of economic development, a degree of social awareness. So there is a certain sense of direction for the country. What was missing was political freedom and democratic values, and human rights and the space for dissent (Nasheed, independent MP).

Another reason for increased dissatisfaction with the Gayoom Government was the allegations of widespread corruption and lack of accountability. This was highlighted by many of my interviewees. Some interviewees even suggested that this was one of the reasons why they had become activists and wanted to change the Gayoom Government.

Over the years, I had heard a number of stories about the corruption of senior people in the Government. I just could not accept that. But that is when I also realised that things needed to be changed and that the [Gayoom] Government would not change anything (Saeed, Cabinet Secretary in Nasheed Government).

According to Aiman Rasheed of Transparency Maldives, corruption in the Maldives is unlike corruption in the neighbouring countries where much of it is petty corruption (cited in Robinson, 2011). Rasheed suggests that in the Maldives there is corruption across the judiciary, parliament and members of the executive, all of it interlinked, and with a systemic failure of the systems in place to address corruption (Robinson, 2011; Nafiz, 2011). The Maldives' population were very unhappy and disillusioned about this situation, especially young people, who have a vision of the type of country they would like to live in (Robinson, 2011).

I was very unhappy about corruption, and that was the reason for me to become involved in the opposition in the first place. That is why I wanted to bring about a change. If I am honest about it, I never had any intentions of ever working in the Government, not then and not even now (Mausoom, Finance Secretary in Nasheed Government).

Corruption, as Johnston (1998: 89) defines it, is the "abuse of public roles or resources for private benefit". Many academics believe that entrenched corruption feature in societies with low political competition, low or uneven economic growth, a weak civil society, and the absence of institutional mechanisms to deal with corruption (Robinson, 1998). As I have discussed above, this fits in with the Maldives scenario. Even though the Maldives had

experienced rapid economic growth, it was still characterised by lack of multi-party politics, a non-existent civil society, and no effective mechanisms to deal with corruption. The Maldives also reflected a pattern of clientelistic relations which Khan (1996) describes as prevalent in the South Asian context, in which the form and prevalence of corruption appear to be a function of the process of accumulation and evolution of property rights over time. The root cause of corruption seemed to lie in the historic dominance of the state in economic and political affairs, which weakens the ability of citizens to hold politicians and state officials accountable for their actions (Khan, 1996). Johnston (1998) suggests that democratic rights and processes do not make a significant contribution to corruption *per se*. He suggests that the creation of democratic structures and special agencies to combat corruption will only succeed if citizens organise themselves effectively (Johnston, 1998). One interviewee suggests:

If the people do not have a democratic mind set then there is always room for abuse. It is only when the checks and balances are working that one will offset the other (Ibrahim, leader of SLP - Social Liberal Party).

In the Maldives, the new Constitution called for the setting up of independent institutions such as the Auditor General's Office, the Prosecutor General's Office, the Human Rights Commission, the Elections Commission, the Anti-Corruption Commission and the Judicial Services Commission. During my visit to the field, some of these institutions had either not been set up or were not fully functional. Even at present, as I have explained in Chapter 2, the independence of some of these institutions are questionable as the opposition majority in the parliament have appointed members that they have undue influence over most of these institutions.

Fear and Intimidation

Among the fundamental freedoms enshrined in the International Bill of Human Rights is the right to prohibition from unlawful arrest, detention, torture and degrading or cruel treatment. In the Maldives, arbitrary arrests, detention

and torture carried out by the past governments had instilled fear and intimidation among the people. At the same time it had also created growing resentment and discontent with the Government. Many of my research participants talked about the lack of respect for these fundamental freedoms in the Maldives. In fact, as I have mentioned in Chapter 1, the death of Evan Naseem in jail in September 2003 is seen as a tipping point in the history of the Maldives for bringing in a number of democratic changes and introducing the beginning of respect for international human rights norms in the country. The Evan Naseem incident saw the beginning for many of my interviewees to become actively and openly involved in opposition activity.

I became openly involved in 2003 after the incident of Evan Naseem's death. But we have been working on an opposition movement since the 1990s (Ibrahim, leader of SLP).

After the September 2003 incident, the Gayoom Government was forced to concede a number of major political reforms due to widespread international pressure from transnational advocacy networks and many international donors, in addition to domestic pressure from the opposition. The reforms promised and announced by the Gayoom Government were severely tested in August 2004, when a peaceful demonstration that initially began as a demand for the release of four political activists held by the police turned sour with clashes between the police and the demonstrators (Shaheed & Upton, 2008). Over 250 activists were arrested and a state of emergency was declared in the country. This spurred more people into joining the growing opposition.

I was motivated to become involved in the opposition movement after the Evan Naseem incident in 2003 and the follow-up shootings. It was after the 12-13th August incidents in 2004 that I decided that I would leave Colombo and come back to Malé. Since then I have been actively involved in MDP activities (Ameen, Minister of Defence in Nasheed Government).

Many of my interviewees were among the activists that were arrested following the 12-13th August 2004 incident. Some of them had been detained

and charged with sedition and treason. Many of them had personally experienced some form of abuse or torture while in detention. I had been able to meet them in jail when I was on the Prison Oversight Committee from 2004 to 2005, and to personally observe the conditions that they were placed in during their stay in prison. I also remember the attempts that the Committee made to bring the situation to the attention of President Gayoom through our reports. Almost every single interviewee mentioned the incident of the death of Evan Naseem in jail in September 2003 and felt that this was one the most gruesome examples of human rights violations by the Government in the recent political history of the Maldives. They also saw this as one of the turning points in the struggle for democracy in the Maldives. One interviewee who played a key role in financing and supporting current President Mohamed Nasheed's activities in exposing the human rights abuses of the Gayoom Government during his time of self-imposed exile, initially in Sri Lanka and later in the UK, through online internet publications and radio broadcasts spoke about his involvement in the opposition movement.

My main aim was to bring justice and human dignity to the people. The way I see it that is what was missing in our society. I believed that what I was doing was legitimate and I also believed that politics should be based on what the people of a country wanted. People should have the right to voice their opinions and they should not be jailed just because of their beliefs or what they say (Mausoom, Finance Secretary in Nasheed Government).

Although many of the interviewees had personally experienced some form of torture or abuse at the hands of the Gayoom Government, many were reluctant to talk about it. According to MISA (2011), fear of possible reprisals and the trauma of the experiences undergone make victims reluctant to talk about human rights abuses. During my interviews, most of them would only talk about their experiences in general terms, although some of them have had earlier mentioned specific instances of abuse that they had personally experienced when I had the opportunity to talk to them in jail during my time with the Prisons Oversight Committee. This was explained by Ameen during his interview.

Most of the people in MDP I would say are those that have suffered a lot of abuses one way or the other at the hands of the Gayoom Government. That is why we were able to withstand the high-handed actions of the police, and that is why we are all so united. They also see a leader in Nasheed who has gone through the same thing. So it's easy for MDP members to accept Nasheed (Ameen, Minister of Defence in Nasheed Government).

The lack of fundamental freedoms such as the lack of freedom of speech, freedom of assembly and association, and even the inability to be able to say no to sexual advances from senior Government officials were contributing factors that led to an increasing sense of fear and intimidation. One interviewee, who had earlier worked in the Gayoom Government and now works in the Nasheed Government, explained it as the following:

The first thing is that we wanted to have freedom of speech where we could at least have a voice in the Government to say what we want irrespective of whether it was done or whether it was implemented by the Government. And that is where the problem started. We saw that things started developing in a different direction after his [Gayoom's] second term. We saw the increase of police, and we knew exactly what he was going to do. We saw the increase of military and we saw his relatives doing whatever they wanted – raping children, 'using' others' wives, and anything that they did was good whereas anything that we did such as commenting on a Government policy was considered bad. So as a teenager I saw things that the Gayoom regime had done. Even if something is bad we can't criticise, even if it is a case of rape. People have reported to me that they couldn't raise their voice because if they did, they would be put in jail. People just accepted those things because they didn't have any other choice (Bari, Policy Secretary in Nasheed Government).

As I have mentioned earlier in Chapter 2, the Democratic Reform Agenda announced by the Gayoom Government in 2004, claimed to bring in democratic changes which would lead to the establishment of a modern liberal democracy in the Maldives. However, as Roth (2009) suggests, since there are no

international covenants on democracy, it was easier to claim the democracy mantle as unlike human rights law, the road to democracy casts aside its key human rights components. In Chapter 3, as I have explained, according to Risse at al's (2009) spiral model, the announcement of the Reform Agenda coincided with the tactical concessions phase when the Government tried to seek cosmetic changes to pacify mounting international pressure. However, in practice, criticism of Government policies led to arbitrary arrests and political detention for indefinite periods of time. During detention, people were subjected to harsh and severe punishments.

Because of my involvement with *Sangu*, which was a paper which highly criticised the Government, I knew that I could be arrested any time. The people in Malé knew very well what was going on and they would talk about these things secretly, but for me, having not been in Malé, I was not afraid. I was never afraid of going to jail. But I have seen others who are really scared. I was put in solitary confinement, and at one time I was kept in solitary confinement for thirty days at a stretch (Saeed, Cabinet Secretary in Nasheed Government).

State-sanctioned discrimination against political opposition and police brutality were other common everyday occurrences in the Maldives during the Gayoom Government. In recent times, this became most obvious during the notorious Black Friday Protests of 12-13th August 2004 that took place in Malé. Following is a description of events by one interviewee of his experiences immediately after his arrest during the incident.

The police beat me on the head with their baton, grabbed hold of me and took me inside the NSS building, where they tied my hands behind my back and blindfolded me. I could actually see through my blindfold and once they realised this, they stuffed cotton wool inside the blindfold. They kept me like that and I passed out or fell asleep from the bashing and the lack of sleep from the previous night. I must have been like that for about six hours. I woke up when somebody nudged me and told me to go and eat. I could hear people crying nearby and others talking. All that time they

hadn't given us any water or anything to drink. But the worse thing was that the police and security personnel, including the female officers were shouting filth at us. I have never heard such filth before. You can tell who was being brought in because of what these officers were shouting at the detainees. It must have been about 11 pm on the night of the 13th then. I realised it was 11 pm because I heard one officer saying that dinner will be ready at 11 pm. When they brought the food to us and we were asked to eat they still kept us blindfolded and handcuffed. Our legs were also tied together. My hands were swollen by then and it was really painful trying to eat, but I realised that I had to eat something if I wanted to keep my strength up. The next day, handcuffed and blindfolded, we were taken out of the building to an open area where we were asked to run. I kept running until I banged into a wall and then they would make us turn back and run the other way. They would kick us with their boots, and I could hear people screaming and crying. They were also taunting us verbally. I was really scared when one of the officers put their baton on my eye and asked me to come. I thought he might even hit me on the eye with the baton. Even now I get scared when I see police officers in uniform (Ziyad, MDP activist).

As Bar-El (2009) suggests the use of above types of repression and restrictions, including police and military brutality, is one of the characteristic features which distinguish dictatorial regimes from democracies. However, as I have mentioned in Chapter 3, the 9/11 incident in the US, the subsequent War on Terror and the use of excessive forms of interrogation techniques that the US military used in Guantanamo Bay suggests that even democratic states can become repressive and restrictive when it comes to issues of national security. Police brutality and use of excessive force were common place in the Maldives during Gayoom's rule, especially when the domestic opposition became more vocal and organised.

When Gayoom came to power, the tools he used to stay in power were the police and torture. If anyone says anything against him, that person would be sent straight to jail (Zuhaira, MDP activist).

In dictatorial regimes, such high handed methods are used to crush any political competition in order to stay in power. This, as Sloam (2007) suggests, has a major impact on alienating young people. Ali, a Maldivian diplomat, explains the effects it had on young people in the Maldives.

The Government refused to accept that change was needed and that resistance to change made the Government create rules and regulations outside of the Constitution, which ended up being almost like at the whims and fantasy of the cabinet. These rules and regulations were not accepted by the people and they were not necessarily made for the peoples' benefit. They were made for the benefit of the Government. Here were a set of rules that the public did not approve, and because laws are best implemented when the public approve of it, the police ended up having to use means that were normally not used by a police force – aggressive methods of law and order. This created a youth generation that rejected law and order, on top of the drugs issues (Ali, diplomat in Nasheed Government).

In the Maldives case, the repressions, restrictions and the violations of human rights had become so widespread that a number of families were affected by them. Things reached a stage where many people were not willing to see and tolerate it any further, and this led to the rise of an organised opposition movement. Initially formed abroad in 2003, the Maldives Democratic Party (MDP) became a thorn in Gayoom's side as the members had managed to convince the international community of the brutality of his regime. When Gayoom was pressured into allowing recognition of political parties in 2005, MDP relocated to the Maldives and resorted to direct action, with their principal aim being to remove Gayoom from office (Shaheed & Upton, 2008). Widespread human rights abuses were the reason that the current President (Mohamed Nasheed) cited during his interview as his inspiration to become actively involved in changing the political situation of the country.

All these arrests and human rights abuses that's very willing. I come from a family or a background of people who have suffered a lot in this. I think Evan Naseem's incident [his death from torture suffered in jail] was the

tipping point. That was when we actually started organising ourselves. Initially it was just criticising the regime and writing about it. Then came the idea that I should seek election (President Nasheed).

The trend of arbitrary arrests used by the Gayoom regime victimised a number of innocent people. The Human Rights Commission of the Maldives had expressed their concern and objection to the widespread use of arbitrary arrests to contain political opposition and its implications on the victims.

In the past, a lot of people had been taken into custody and they had criminal records because of this. But this should not be the case as unless a person is guilty, they should not be convicted, and if they are not convicted they should not have a criminal record. After we complained about this, the police have now amended this practice. Now, unless a person is found guilty or convicted, he or she will not have a criminal record. Due to past practice, a number of employers have been reluctant to employ anyone who had been taken to the police even if it was just for questioning or to give evidence, simply because it appeared as a criminal record against their name (Saleem, Human Rights Commissioner).

Widespread detention, police brutality and denial of a fair public trial by a partial judiciary that was controlled by the executive meant that there was little hope for rule of law in the Maldives.

Failure of the Criminal Justice System

Problems with the criminal justice system were cited by a number of the study participants. The criminal justice system in the Maldives, as described in Chapter 2, was based on a combination of codified modern law and Islamic Shari'ah. The penal code used was prepared in 1962 and there is no established doctrine of precedence or other common law tradition. Statutory law was absent in many areas and no burden of proof is required for a court conviction. Trials were based on confession and there was no system of trials by jury. As the judiciary operated as a branch of the executive and the judges were bound by the executive's interpretation of the law, there was no independence of the

judiciary. Being entitled to a fair hearing and being able to defend one's self in a fair and impartial manner is accorded by the International Bill of Human Rights as well as by the new Constitution of 2008.

According to Piana (2010: 43), lack of guarantee of judicial independence may be fatal to the effectiveness of limitations of power. Many of the interviewees spoke about the lack of rule of law, problems with the existing laws which are incomparable to the punishments, problems with law enforcement, and a lack of efforts at community reintegration for offenders. Often their criminal records meant that they were unable to secure a job, when they had served their sentences. This meant that many people who had even committed minor offences were unable to come out of the system and become productive citizens until 2011 when the Nasheed Government introduced the Second Chance Programme for detainees (PO, 2011). Under this, prison detainees are given an opportunity to be released on parole for good behaviour, undergo a skills training programme and then find suitable employment and unless they re-offend they are able to reintegrate back into the society. As some interviewees suggested the Gayoom Government failed in this area.

Gayoom cannot certainly say that he did not have time to address or correct all these problems. He had enough time in power for a new born to grow up, go to university and return from his studies and still work for his Government. But look at the number of qualified people in our judiciary. He deliberately had a hand in the judiciary, and if there is no rule of law in a country, then you have nothing. Then everything can go haywire. So this is one indicator where you can judge his sincerity to the people. Not only did he practice corruption and use of state funds, but he also did not have an ounce of sincerity or sympathy to the people he ruled. That is where you see Gayoom's true colours, by the lack of rule of law in this country (Ali, prominent businessman and MDP activist).

Davidson (2009) suggests that a poor democratic rule of law debilitates the formal rights and freedoms of political equality and civic participation. According to him, unless the Government can be relied upon to enforce

democratic institutions and are subject to law themselves, then a meaningful electoral democracy is unobtainable (Davidson, 2009). Gbadamosi and Adewoye (2010) suggest that rules are of little value if they are not the active instruments governing the conduct or actions of rulers. Lack of rule of law was seen to be part of the process by which Gayoom retained and manipulated power. For example, allegations of corruption and embezzlement of state funds by members of Gayoom's cabinet and senior Government officials were mostly ignored, or when such matters do reach the courts, it is only the junior officials who are charged.

Gayoom had no intentions of sacrificing anything for the national interest. In that process it wasn't just him, it just spread. That was a kind of symbiotic relationship he had with all the ministers. It was kind of "you scratch my back, I'll scratch yours". Because of this there was no rule of law in the country (Ibrahim, leader of SLP).

Over the last three decades, the concept of "rule of law" has gained popularity in international political discourse (Piana, 2010). Rule of law is meant to be the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power and prerogative of wide discretionary authority on the part of the Government (Gbadamosi & Adewoye, 2010: 349). It means equality before the law or the equal subjection of all classes according to the ordinary law of the land administered by the ordinary law courts. It also means that the government should be conducted within a framework of recognised rules and principles, which restricts discretionary power, failing which anarchy, despotism and totalitarianism could pervade the entire society leading to a breakdown in social equilibrium (Gbadamosi & Adewoye, 2010). A report by a delegation of the International Commission of Jurists (ICJ) suggests that although "the Maldives remains a country in transition, holding promise of a constitutional democracy with institutions founded upon respect for the rule of law, fundamental rights, and the separation of powers, the legacy of an authoritarian past, in which the President was also the supreme judicial authority, has tested the transition" (ICJ, 2011:3).

In the Maldives, the lack of rule of law and inconsistent use of the law played a significant role in peoples' lives. One often cited example of this is the case of Gayoom's wife's nephew who was given preferential treatment when he was arrested with a group of his friends on charges of drug use.

For a long time, young people have seen an inconsistent use of the rule of law. This gave them the belief that no matter what they did, there was really no use. It was all so very subjective. There is really no objective path for them to follow. So, this inconsistency in the social fabric just tore away a whole generation (Ali, diplomat in Nasheed Government).

The ICJ Report confirms the discriminatory practices by the judiciary. It recommends that those subject to the law should be able to predict whether their actions are lawful or not, and that laws must be applied equally to all (ICJ, 2011: 20). The ICJ (2011) further suggests that all those subject to the law must have access to competent, independent, and impartial judicial authorities for the adjudication of their rights, with full respect for due process and equality before the law, and the laws must not violate the rights of individuals as established in the Constitution and in human rights and standards applicable to the Maldives. According to Einfeld (2005), the 2008 Constitution enumerates the fundamental rights and responsibilities of Maldivian citizens. These include equality before the law, the right to be accorded protection under the law and be treated according to law, the presumption of innocence until proven guilty, and the prohibition of punishment under retrospective legislation (Einfeld, 2005: 5).

According to Gbadamosi and Adewoye (2010), the discretionary powers of crime prevention agencies should not be allowed to pervert the law, in the sense that neither the prosecutor nor the police should have the discretion to allocate its resources to combat crime on other bases than those established by the law. In the Maldives, some interviewees observed that even though rules and regulations were in place, the Government seemed reluctant to implement them. Delays in prosecuting offenders seem to also be a major problem in the failure of the criminal justice system. According to law enforcement officials,

bureaucratic procedures and slowness of the legal machinery, lack of trained personnel and a general lack of respect for the use of the rule of law seemed to hinder the justice system.

In one year we have had incidences of repeat offenders who have been brought in seven times on charges of theft. One of the problems we are facing is that the Prosecutor General's Office is not being able to prosecute cases for which we have finished investigations. We have sent so many cases to them and because they have not been able to prosecute them these people are out on the streets committing further crimes (member of police team).

A further problem afflicting the judicial system is the unsuitability of existing laws which are in need of revision. The Government still relies on a penal code, which was enacted in 1967 in response to civil unrest in certain regions of the country. As a code enacted to deal with a specific uprising, it is not comprehensive and is largely unable to address current crime patterns and problems facing the country (Einfeld, 2005: 10). This penal code is inadequate and is more harmful than beneficial. An example of this is the criminalisation of offences like drug use. The criminal justice system is also criticised for its failure to rehabilitate and bring offenders back to the community. Instead they are introduced to new criminal activity in jail.

I think there is a lot of misunderstanding because drug users and not just drug pushers and traffickers are considered as criminals. We need to try and decriminalise it. It requires changes in the law, and more importantly changes in attitudes and peoples' awareness of the issue. Then of course the downside of this is also that a lot of the drug users are being arrested and put into prison and prison is not a place for them – for most of them. We are not distinguishing between drug users, drug peddlers, dealers, the traffickers; we are not making any distinction at this point. So everybody is being treated with the same yardstick. So this is a big problem, and I think even at the higher levels in the Government we need to recondition our thinking that continued care is needed and that different categories require

different kinds of treatment (Waheed, Home Ministry official in Nasheed Government).

The Nasheed Government has also recognised that the Maldivian judiciary is systematically corrupt because its decisions are unduly influenced by members of the former Gayoom regime (PO, 2012). In addition, the lower court judges (judges excluding the Supreme Court and High Court) were sworn in against the letter and spirit of the new Constitution during its transition phase, even while it was well-known that some of the judges are under-qualified, have previous criminal convictions, and are of dubious moral character. (PO, 2012: 2).

One of the contradictions in the administering of justice in the Maldives stems from Article 10 of the 2008 Constitution which states that no law contrary to any tenet of Islam shall be enacted in the Maldives. Although in the Maldives the legal system is based on an amalgamation of common law and Islamic Shari'ah, Islamic law does not play a major part in the day-to-day conduct of the legal system (Einfeld, 2005). Certain criminal offences such as adultery and drinking of alcohol, however, owe their existence to Islamic teaching and are not found in the common law tradition. Punishment for these offences includes flogging which is considered as a cruel and degrading form of punishment under international human rights laws. On the other hand, other punishments, espoused in Islamic Shari'ah such as amputation of the limbs for theft and the death penalty for apostasy, are not practised.

For years, Amnesty International has been concerned with the lack of provisions to safeguard fundamental rights in the criminal justice system. According to them, fundamental flaws in the criminal justice system continued to lead to unfair trials because there is no unified definition of a criminal offence in Maldivian law, and because many judges have no formal legal training (Amnesty International, 2011). Comprehensive reforms to ensure protection of human rights and to address specific areas such as criminal procedure, police powers, use of evidence in court with a reduction on the reliance of confession,

juvenile justice, strengthening of the penal system, jail management and the judicial system need to be put in place. The ratification of a number of core human rights instruments in recent years has meant that the domestic laws have to be now revised so that they are compliant with these international human rights standards. Although there has been a change in the Government in 2008, concerns about recent increases in crime levels have meant that there is an added impetus to the reform of the criminal justice system. A reliable and operational criminal justice delivery system is needed to sustain democracy and the rule of law and to protect security. Cox (2011) suggests that a vital step is ensuring that the legislative foundation is put in place as soon as possible with the enactment of criminal reform legislation, particularly the Penal Code, Criminal Procedure Code, Evidence Bill and the Juvenile Justice Bill.

Resistance to Change

Another important factor that was cited by some of my interviewees was the Gayoom Government's resistance to change. According to Shaheed and Upton (2008) the Maldives had been on the margins of the international system until the aftermath of the global energy crisis in the 1970s. From then on, modern nation-building efforts began and were focussed primarily on social and economic development. Since Gayoom came into power in 1978, political developments in the Maldives espoused a culturally relativist model, in contrast to the universalist trends in the early 1970s of the Nasir Government. Gayoom placed emphasis on developing a more coherent nationalist perspective based on the Islamic culture of the people. By the 1980s, objections to this trend were felt in the form of attempted *coup d'états* of which the 3 November 1988 one was by far the worst in Maldives' recent history.

Until 1988, people were more or less very placid. But after that there was need to strive and a need to combat. The Government combated this resentment and opposition. But that combat wasn't healthy because it was a resistance to change. The Government refused to accept that change was needed even then, and that resistance to change made the Government

create a lot of rules and regulations all outside of the Constitution (Ali, diplomat in Nasheed Government).

The people resented the fact that Gayoom and a few of his fellow Al-Azhar graduates who were by then holding all the key posts in Government, were imposing their style of governance, using Islam at the centre of politics and initiating an Arabisation programme which was quite alien to what the majority of the population were used to (Upadhyay, 2008). The fact that they were unwilling to listen to or take on board suggestions by young people who had been educated in the Western tradition, created a growing discontent especially among the younger generation who felt that the Maldives was not keeping pace with global developmental trends (Amir, 2011). Most of my interviewees felt that the Gayoom Government was not open to suggestions which were needed to bring about a meaningful change which the people wanted in keeping with the times.

I didn't think that Gayoom was sincere enough. Everything was done according to how he wanted it (Ali, prominent businessman and MDP activist).

In fact a number of the interviewees suggested that Gayoom wanted everything done his way and this was being reinforced by the people around him. Bari, Policy Secretary in Nasheed Government explains:

Everything that people told Gayoom had to be good things about him. If it is something that he didn't like we could not say it. That's where things went wrong. Even his ministers will not say anything that he will dislike in the cabinet. Everything they say will have to have his blessing or it should be something that he likes. So every minister tries to say something that he likes. They will never ever try to say something that he will dislike or anything that he might think is not good. When everybody does this then there cannot be change. And the only change is change that he thinks is good, but not change that others require (Bari, Policy Secretary in Nasheed Government).

The whole system of government was set up in such a way that it was impossible for people to work from within the government to bring about any meaningful change. Gayoom was the executive and also the head of the judiciary. In addition he was also the head of the armed forces as well as the finance minister. He controlled parliament because he had eight MPs who were appointed by him, and in addition a number of his cabinet ministers and high ranking government officials were elected representatives in the parliament. He was also head of the National Security Services. Any attempts to bring a change within the system were thwarted so that the existing *status quo* was maintained. As Ibrahim, leader of the Socialist Liberal Party explains:

After my return from doing my master's degree I found it much easier to analyse what was going on. It was then that I started realising that Gayoom had set up the whole structure in such a way that people like us could not come back and change anything. Every attempt I made was sabotaged. But by then I had realised that the only way to bring about a change was to make Gayoom bow down to law. But when I checked, there weren't even any laws to make him accountable. It was then that I realised how the system was hinged and how the controls were in place. The more I looked, the more I realised that the most pivotal control that Gayoom had were the courts and how he controlled them (Ibrahim, leader of SLP).

The lack of commitment by the Gayoom Government in bringing about meaningful reform and change as befits a modern state were reflected in reports prepared by various international experts that visited the Maldives.

This enduring and pervasive power, at all levels of society, means that there is a perception and widespread scepticism, especially among the younger generation, that the will and desire to deliver on the reform programme is not universal within the Government, particularly as no major democratic change has occurred since 1978 and no timetable had been set for implementation (Commonwealth Secretariat, 2005).

Lack of support for bringing about change, made a number of educated people frustrated and this is cited as one of the reasons why they leave the Government. It was these frustrations that drove many of the discontented people to form an opposition, even though it was such a risky thing to do because of the fear, intimidation and torture used by the Government. As explained in Chapter 1, it was similar frustrations that drove me to take a leave of absence from the Gayoom Government and start this journey on my research. This is how Ibrahim, leader of the Social Liberal Party and a long-term senior official in the Education Ministry explained it:

I left my job with the Education Ministry in the Government through frustration - frustration at not being able to change anything or to improve anything for the good of the public (Ibrahim, leader of SLP).

Even with the change in government at the time of my interviews, people still found it hard to believe that a change in government had been possible in the Maldives given the past Government's repressive nature. As I have explained earlier, the first ever free and fair multi-party elections resulted in the thirty-year dictatorship of Gayoom coming to an end, with the election of Nasheed, a one-time Amnesty International's prisoner of conscience who had been jailed many times and tortured at the hands of the Gayoom regime. One interviewee suggested that bringing about meaningful change was not easy because it required everyone working collectively together towards the same goal.

I think it's going to take a long time to change these things. You can't do it overnight, but if we all worked together collectively there are a number of things that can be done. For instance, if the industry, the government and the community all worked together, we can involve young people much more (Ibrahim, Higher Education Minister in Gayoom Government).

Some interviewees went on to suggest that the Gayoom Government had outlived its usefulness and in keeping with the developments that were taking place globally, the country needed to modernise and change.

The fact of the matter is that Gayoom has lived his time and this country needs to move forward. Gayoom is now becoming an obstacle (Nasheed, independent MP).

With the holding of the first multi-party elections in 2008 and the coming into power of the MDP Government headed by President Nasheed, many interviewees were optimistic that Maldives would see a turning point in its history for democracy and a more humane government.

I feel that we have gone through a big change, but we weren't as ready to manage the change process because it is a huge change (Waheed, Vice-President in Nasheed Government).

At the time of the institutionalisation of the new Government, managing the change was going to be a challenging one given the Maldives history and the dictatorial and autocratic governments that the country had been under in the past.

I think most of our politicians put their own agendas and interests forward rather than those of the country. So I feel that we have a great deal of work to do to change the mind sets of our politicians. But this can be done (Mausoom, Finance Secretary in Nasheed Government).

This was going to be the biggest challenge for the Nasheed Government.

Conclusion

The findings presented in this chapter relate to civil and political or first generation human rights as was evident from the empirical materials gathered for this research. It shows that issues of governance, fear and intimidation, failure of the criminal justice system and the lack of the rule of law, as well as resistance to change were major concerns. Even though there have been a number of positive developments in terms of the Maldives socio-economic development, participants of this research were concerned at the lack of progress in civil and political rights and the space for political dissent.

The absence of separation of powers between the executive, the legislature and the judiciary prior to 2008 meant that the President had absolute power with little room for democratic participation in the decision making process by the people. With a weak civil society and no multi-party politics, opposition was severely restricted. The use of Islam at the centre of politics alienated a number of people who had been educated in the Western tradition. Many of the disaffected young people became victim to the laws which were inadequate. This resulted in their incarceration and their experiences of a criminal judicial system which fell far short of international human rights norms that were befitting of the 21st century. Furthermore, increased connectivity to the rest of the world in the modern technological and communication age meant that people were now aware of developments that were taking place globally.

By the turn of the century, growing discontent with the blatant abuses of human rights and the lack of democracy, led a number of people to organise themselves into a formidable opposition. Even though the Gayoom Government was reluctant to recognise them in the Maldives, they were able to band together overseas and through the use of modern media reach a number of their supporters in the country. After much hard work and suffering they were able to get the attention of the international human rights agencies and the international media. Being heavily dependent on external aid, the Gayoom Government had to finally relent to external pressure, especially after the devastating effects of the 2004 Indian Ocean Tsunami. With the Government finally agreeing to bring in democratic reforms and allowing for pluralistic democracy, the opposition grew stronger and bolder.

Not really being convinced of the Gayoom Government's seriousness in bringing about the proposed reforms, the opposition MDP took to the streets of Malé, believing that direct action was the only way to bring change. After a bitter struggle and with many of them experiencing a number of human rights violations, the MDP finally succeeded in winning the first-ever free and fair democratic elections in the country. President Nasheed, a one-time Amnesty

International's prisoner of conscience became the newly elected President in 2008 under a new democratic Constitution. This was the first step towards securing civil and political rights in the Maldives.

6

ECONOMIC AND SOCIAL RIGHTS

Introduction

In this chapter I present and discuss the findings related to economic and social rights in the Maldives that were gathered from the empirical materials. I present findings related to cultural rights in the following chapter. Economic and social rights, together with cultural rights, relate to second generation human rights. As I have described in Chapter 3, second generation human rights are rights that an individual or a group need to reach their full potential as human beings. Unlike first generation rights, legal and constitutional mechanisms are not readily guaranteed for second generation rights and, therefore, the idea of human rights abuse or violation applies less readily to these rights.

For the Maldives, second generation rights were considered by the Gayoom Government to be more important than first generation rights. In fact, human rights were only talked about in terms of rights to development, and only because UN agencies had adopted such a framework in providing development assistance. The right to development, however, recognises that political and economic rights are interrelated and interdependent components of human rights and that true individual freedom cannot exist without economic security and independence (Sengupta, 2000). One of the core development objectives of the Gayoom Government was improving the quality of life of the people of the Maldives. As described in Chapter 2, this was reflected in the rapid overall social and economic progress achieved by the country in the last three decades. With dramatic declines in infant and child mortality rates, life expectancy at birth had increased from 48 years in 1977 to 72 years in 2008. Literacy rates increased from 80 per cent in 1981 to 99 per cent in 2008. Universal primary schooling was achieved in 2002 and secondary schooling was

over 90 per cent in 2008. By early 1980s, the Maldives had entered an era of economic boom during which growth reached double digit figures in the 1980s before averaging down to 9 per cent until the effects of the Indian Ocean Tsunami wiped out 62 per cent of the GDP in December 2004. During this period, the Maldives had the highest per capita income in South Asia. At the same time, the Maldives also had the second highest Gini coefficient in South Asia, demonstrating high income inequalities (World Bank, 2006). As explained in Chapter 2, widespread disparities in income exist between the capital, Malé and the atolls, as well as between the rich and the poor in all areas (MPND, 2005).

Even though the Gayoom Government considered improving the quality of life as one of its key development objectives, very little was done to improve the quality of life in the atolls. Second generation rights were thus not really seen as an equity issue, but rather as a means of improving national performance. Even though overall indicators improved, as explained in Chapter 2, there were increasing disparities between Malé and the atolls. This, in turn, resulted in increased urbanisation and mass in-migration to Malé, creating problems of adequate housing in the capital, and leading to overcrowding and lack of space. The large scale in-migration, especially of young people in search of education and employment opportunities to Malé, resulted in a number of socio-economic problems which had an impact on the enjoyment of second generation rights in the Maldives.

As described in Chapter 3, according to Weston (2006), second generation human rights are fundamentally claims to social equity. Using grounded theory methodology described in Chapter 4, the findings of my research on second generation rights in the Maldives were coded, conceptualised and categorised. The findings in this chapter highlight the main issues in terms of economic and social equity, and are presented under the following five broad themes: housing issues (due to population and demographic changes as well as migration), lack of employment opportunities,

poverty and inequality, access to education, health (including increasing incidence of drug abuse), and the impact of climate change.

Housing Issues

With respect to second generation human rights, the issue of the right to housing was one of the most cited issues by the respondents of this research. This seemed to be an issue of significance irrespective of whether they were opposition activists, policy or law makers. Many spoke about the lack of access to adequate housing, the lack of physical space, the high rental costs, overcrowding, and congestion, particularly on the capital, Malé, as one of the contributory factors towards increasing discontent among the people. The increase in the population of Malé was due to natural growth as well as due to migration of people from other islands in search of better education and job opportunities. In-migration of population from other islands to Malé has led to severe over-crowding and congestion on the capital, which exacerbated further after the 2004 Indian Ocean Tsunami disaster, when a number of people who had lost their homes on their islands and had been displaced, moved to Malé.

As described in Chapter 2, the high demand for housing on Malé has increased the rental rates and since housing is developed by the private sector, this has resulted in the construction of high-rent properties rather than properties more afforded by low to middle-income groups. Although the 2008 Constitution recognises the right to adequate housing and the legislative commitment to achieving this right for all, and despite the considerable economic and social progress achieved during the past several decades, the Maldives continues to face severe challenges in ensuring all Maldivians enjoy their rights to adequate housing (HRCM, 2008). Scarcity of land is perceived as the main obstacle to the realisation of the right to adequate housing in the Maldives. Complaints relating to matters of housing were among the third highest received by the Human Rights Commission of the Maldives with regard to economic, social and cultural rights. Their second complaint being issues related to the 2004 Tsunami, which again relates to housing (HRCM, 2008). In fact, housing is one of the most pressing socio-economic problems in the

country, especially in Malé. In the past, Government intervention in the provision of housing has been negligible in the Maldives. Similarly, homelessness was not considered as a major problem because family and friends would always provide a place for people to sleep. However, with the recent influx of people in to Malé (including the rapidly increasing migrant worker population), and the consequent state of overcrowding and congestion, homelessness has become a difficult socio-economic problem, with young people being disproportionately affected.

In Malé, people are now known to sleep in shifts and some even in open spaces like parks (Rolnik, 2009). The lack of space has also resulted in families living in single rooms in very overcrowded and cramped conditions, creating a whole host of social problems (MPND, 2007b).

I think the major problem is housing. That is the biggest problem. I had personally experienced this myself being from another island and living in Malé with family friends. I just had no personal space of my own (Ali, prominent businessman and MDP activist).

Even those interviewees from Malé shared their childhood experiences of what it was like when they were kids and growing up in Malé, and how it is now.

I remember when I was a kid we would play in our garden at home. We had so much space then and we would play with our neighbours and everyone would know each other on that street. We didn't have to go outside of our neighbourhood. We had space to entertain our friends at home. But now there is just no space to entertain your friends at home and we don't even know our neighbours anymore (Eva, MDP MP).

Some interviewees emphasised that lack of space had seemed even more significant once they returned back home after being away overseas to study (Field Notes, 2009).

According to Leckie (1991), the human right to housing is included within many international human rights treaties and other legal texts. However, it has remained theoretical especially for over a third or more of humanity who suffer housing shortages. Although the Maldives is signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR), housing has thus far not been considered as a human rights issue of concern in the Maldives. Even though the Gayoom Government claimed that second generation rights were more important, it had failed to address the issue of adequate housing for the people, particularly in Malé. According to Rolnik (2009), the already existing overcrowding and land scarcity in Malé and some islands impede the realisation of the right to housing of many. Rolnik (2009) suggests that with congestion and the increasing population, properties have had to be divided and subdivided to cater to the increasing demand.

There is not enough space at home now since the properties have been partitioned, so in order to socialise, people have to go out on the streets (Athif, member of SLP).

The lack of physical space in the overcrowded capital is, according to Rolnik (2009), a factor that affects young people and their behaviour. This was confirmed by one of my respondents.

Especially in Malé, problems of overcrowding and living in very congested and cramped spaces results in lack of privacy for young people. So they spend a lot of time outside on the streets and this has led them into anti-social behaviour. This also makes it difficult for parents to monitor what they are doing (Ibrahim, Higher Education Minister in Gayoom Government).

As the Human Rights Commissioner explains, lack of space and overcrowding has sometimes resulted in parents being unable to keep their children at home.

The houses are small and crowded that even parents don't want all the kids to be in the house at the same time. These problems force kids on to the

streets, where they get into unnecessary trouble (Saleem, Human Rights Commissioner).

According to Krusi et al (2010), in an increasingly urbanised world, youth who live, work or spend much of their time on the streets, constitute a growing global concern. Similarly, in the Maldives, this has become an issue of growing significance. As Ali, a diplomat, suggests, the lack of adequate housing affects young peoples' socialisation processes.

When young people don't have a home where they can invite their friends and have a normal regular life, they substitute this void by showing off in some other form (Ali, diplomat in Nasheed Government).

Homelessness, very often leads to a sense of hopelessness and despair (Stoddard et al, 2011). The lack of individual physical space and the proximity that young people and adults have to live in leads to undesirable outcomes where children can become victims of abuse. Many interviewees like Ibrahim, a minister in the former Gayoom Government, highlighted this problem.

There are lots of things that can be done if there was space at home, but because of lack of space young people are forced to go out and then behave in ways which are not socially acceptable. Also a lot of young children see things that they shouldn't see because people live in such cramped spaces and this could, in my opinion, be one of the contributing factors in child abuse (Ibrahim, Higher Education Minister in Gayoom Government).

Stoddard et al (2011) suggest that participation in violence is a particularly devastating and potentially life-threatening outcome of hopelessness. A number of my interviewees attributed the increasing anti-social and criminal behaviour of young people in the Maldives, especially in Malé, to the issue of lack of space and adequate housing.

It is congestion and overcrowding that has pushed kids on to the streets. If the overcrowding in Malé can be alleviated, then it can reduce this problem

of gang violence. Now because of the overpopulation it is difficult to even identify these kids. Earlier, people knew who is who and were able to identify those kids that were misbehaving, and this also acted as a deterrent (Athif, member of SLP).

Studies show that being forced out on to the streets at an early age, turns young people violent. According to Stoddard et al (2011), violence rates peak during the adolescent years, and adolescents disproportionately suffer the consequences of violence, including imprisonment, injury and homicide. This was highlighted by the members of the police team that were interviewed.

We have found that some children usually get involved in criminal behaviour because they are out on the streets due to the difficulties of space and overcrowded living conditions (member of police team).

Inadequate housing not only affects young peoples' behaviour, but it also affects the way in which they view their life and their future. As the Vice-President suggested:

I think most young people want to start a family and live on their own and they don't want to continue to live in a crowded house. When we grew up we could still afford to have a room in our parents' home. Now they cannot even afford to have a room to themselves anymore, so they can't get married anymore (Waheed, Vice-President in Nasheed Government).

As described in Chapter 2, the lack of suitable education and employment opportunities on most of the other islands have resulted in large proportion of young people migrating to Malé. With lack of adequate housing and the resulting overcrowded and congested living conditions, these young people end up on the streets making them easy prey for gang leaders who recruit them for criminal activity. Homelessness impacts criminal behaviour among young people disproportionately (Stoddard et al, 2011), and this can be seen in Malé where there has been a steady increase in crime rates among the youth

population. This problem and the subsequent breakdown of the social fabric have been highlighted by many of my respondents. As Athif explains:

What is happening now is that children coming from the other islands are not being looked after anymore. In the past, children coming from other islands resided with good families in Malé and they were looked after well by the heads of these households. Now, when children come to Malé for education or other purposes, they usually live with others who are migrants or they get together and rent a place on their own, which leaves them quite often without proper guardians who will look after their welfare. Now they usually live in these houses as lessees rather than as members of the household. There are also no mechanisms for the Government to look after them (Athif, member of SLP).

This was confirmed by the police team.

The majority of children committing crimes are from the islands, but we are not sure how long they have been residing in Malé. Some of these children we have found usually get involved in criminal behaviour because they are out on the streets due to the difficulties of space and overcrowded living conditions (member of police team).

Krusi et al (2010) suggest that street involvement and homelessness have been associated with various health risks for young people, including increased substance use, blood-borne infections and sexually transmitted diseases. Young people migrating to Malé were seen to be particularly vulnerable according to a number of my respondents. When they move to Malé they have to leave their island communities and come to an urban centre where they become invisible among the crowd. This was expressed by one interviewee this way.

Another disadvantage for young people I feel is migration. On the islands, young kids were raised by the community, not just by their parents alone. Everyone knew each other and would tell on a child if they were naughty. When larger families moved to Malé, it created a vacuum on the islands.

Now in Malé, this is like a city and we don't know our neighbours and there is no community as such. We have artificial relationships now with the introduction of cable TV, internet, etc. We can talk about the TV shows in a very engrossed manner, but when it comes to our neighbours, we don't even know their names anymore. We have become very robotic about these things and young people now don't learn to care for and respect each other (Aishath, Youth Minister in Gayoom Government).

Based on my own personal observations from living in Malé, as well as from what many of my interviewees said, during the past thirty years of Gayoom's rule, the Government had failed to recognise the changes that were taking place demographically and failed to adequately address issues that were relevant to the increasing youth population. This continues to be a major challenge for the current Government. Nasheed, an independent MP, expressed it this way.

Unless the current [Nasheed] Government rectifies these very serious issues we have very quickly and in an inclusive manner, I think most of our youth would get disillusioned. It is one of the failings of the previous Government that they did not see this pyramid – the population pyramid, taking this shape. And it was one of the failings of the past Government that they did not realise that with the changes in the population pyramid, several other social issues related to youth would appear on the horizon. If they had worked to prevent this it would have been so much better. But now these problems have appeared and they have taken root and they are slowly becoming cancerous. So it is up to this Government to do a surgical treatment of these issues (Nasheed, independent MP).

Given the demographical patterns in the Maldives, and the proportion of young people that make up the majority of the country's population, even the Human Rights Commission of the Maldives had identified the issue of youth as one that needed urgent action.

The proportion of young people is increasing day by day, so immediate action has to be taken by the Government. Young people need to be

moulded and disciplined so that they become responsible people in the future. They are the future leaders of this country (Saleem, Human Rights Commissioner).

Some of my interviewees did highlight the fact that the Government has not and does not do enough to address the problem of housing rights.

The [Gayoom] Government was not able to sort the housing problem, the congestion problem. The housing problem became very, very acute. Government became busy in protecting its image -- the Government itself, by any means possible. The blame has to also be shared by the international community as well because although the right to housing is deemed to be part of an international covenant [ICESCR], the international community has a practice of diplomacy that they must respect the documentation of the state. So if the state provided documents, although they have reservations, they went along accepting it. This went on until independent studies were done which refuted the statistics shown by the Government (Ali, diplomat in Nasheed Government).

According to Leckie (1991), any historical analysis of human rights (particularly economic, social and cultural rights, including the right to housing) reveals how rarely the state has been the leader in giving clarity, substance and strength to human rights norms. After ratifying a treaty, many states do little to carry out these legal duties. From both what my interviewees have said and from my own personal observations, even though the Maldives had ratified the ICESCR in 2006, until very recently when the Nasheed Government started investing in the construction of housing, very little had been done by the state in fulfilling the Maldivian peoples' right to a safe, secure and decent place to live.

Lack of Employment Opportunities

According to the Human Rights Commission of the Maldives (HRCM), despite the constitutionally guaranteed right to fair and equal conditions of work and the existence of an Employment Act, implementation of employment related legislation was in need of much improvement (HRCM, 2010). Findings

from my data suggest that lack of gainful employment opportunities, especially for young people, and the increased employment of expatriate labour in the Maldives played a significant role in initiating the political change process in the Maldives. It was interesting to also note that just two months after President Nasheed's Government took office, the HRCM found a noticeable difference in the types of human rights violations that were reported to them (Field Notes, 2009). According to HRCM (2010), employment related complaints constituted the largest number of complaints submitted to the HRCM.

Now, most of the complaints received at the HRCM are on employment issues. Earlier it used to be about torture and abuse in detention. There were about twenty cases a month reported on torture before, but it has reduced drastically. I am not saying that torture is not taking place, but now people are not taken to the police indiscriminately and there are hardly any reports of torture (Saleem, Human Rights Commissioner).

Employment issues were also seen by many of my respondents to be the most important issue that young people in the Maldives faced today. As Saleem, the Human Rights Commissioner, explained further:

I feel that the biggest issue facing young people is that of employment. There are a lot of young people needing jobs. So there needs to be some way of creating jobs for them, as they cannot become productive people without a job. Lack of employment is the reason why so many young people turn to drugs. Young people get depressed because they can't get a job and this is what leads them to drug use. I think that lack of availability of job opportunities is one of the main issues that young people face (Saleem, Human Rights Commissioner).

DeLuca et al (2010) suggest that growing youth unemployment is a worldwide crisis as youth are three times more likely to be unemployed as adults. In the Maldives this problem becomes especially significant since over 40 per cent of the total population are youth (MYDS, 2005). According to some of my interviewees, it was not a matter of lack of job opportunities *per se*, but the

attitudes of young people themselves towards work that make unemployment a problem issue for them.

There are jobs, enough jobs for all our youth in the Maldives especially if you include all the resorts. But there is no reason for young people to work. We assume that jobs plus young person equals employment. However, I feel that it is jobs plus young person plus attitude that equals employment. Our society does not place any emphasis on the need to work. We do not want to start at the bottom and work our way upwards (Aishath, Youth Minister in Gayoom Government).

According to Athif, member of the Social Liberal Party (SLP), youth unemployment in the Maldives was seen to be a matter of choice for various reasons.

For every young person that is looking for employment, there is an equal number of youth that do not want to work. There is also a mismatch between young people's ideal vision of a job and jobs that are available. When I worked at ADK Hospital, I have seen a number of young people when they actually get a job don't turn up on time or will come irregularly, making it extremely difficult for the employer to keep them. This is one of the reasons why a lot of young people lose their jobs. They don't seem to have a need to earn. It's easier for them to live like that now because their parents will look after them (Athif, member of SLP).

Even though a majority of the interviewees spoke about employment issues as being one of the fundamental problems particularly for young people, not many of them thought about the issue in terms of it being a human right guaranteed under Article 37 of the 2008 Constitution (Hussain, 2008). This was expressed by only one interviewee.

Employment is one issue, and rights-based employment is another serious issue faced by young people (Nasheed, independent MP).

Mundlak (2007) suggests that although the right to work is frequently mentioned in human rights documents and state constitutions, it has rarely been translated into practice, and this fits into the general claim that social rights are difficult to implement unlike civil and political rights. He also suggests that even human rights activists are more concerned with slavery and the denial of choice, as well as fair wages rather than income, individual fulfilment, constitution of one's identity, or social exclusion (Mundlak, 2007). Even the Gayoom Government had not paid enough attention to job creation and providing equal employment opportunities as part of its democratic reforms. This was expressed by some respondents in this research who felt that there were not enough jobs created to keep pace with the number of young people that left schools.

I think the most important issue young people face today is that of employment. There are not enough employment opportunities for young people now and this leads to a number of other social issues. The other problem I feel is that with the universalisation of primary education, and the expansion of secondary education throughout the country, a number of children come out of schools and then have no opportunities either for further education or employment in their islands. So they have nothing to do (Ibrahim, Higher Education Minister in Gayoom Government).

In the past, job creation had not been a problem because of low numbers of school leavers and the one or two additional jobs that were created in the civil service on most islands were able to keep pace with the number of school leavers that qualified for these jobs. However, with the change in the population pyramid and the increasing youth population, young people were no longer able to find employment easily.

Although the Maldives became a member of the ILO (International Labour Organisation) in May 2009, it has not ratified any of the core ILO Labour Conventions resulting in restrictions on trade union rights of workers and discrimination against women and migrant workers (ITUC, 2009). Article 30 of the 2008 Constitution provides for the right to freedom of association and the

right to form trade unions and to participate in them. However, it is still not common practice, and strikes have often been met with suppression and violent reactions by the police. The Government has also been ineffective in addressing discrimination that women face in the workplace and in the society in a satisfactory way (ITUC, 2009). There are also no adequate legislative measures to address the issues of forced labour among migrant workers in the Maldives (ITUC, 2009), which is a serious problem in the country and which has led to the Maldives being placed by the US on its Tier-2 Watch List for human trafficking for three consecutive years.

As mentioned in Chapter 2, arbitrary arrests and detention were commonplace during the past. Given the large numbers of youth who had been incarcerated in the Maldives, discriminatory practices in employment were faced by many young people with a criminal record. The trends of arbitrary arrests and detention by the Gayoom Government meant that a number of people were arrested indiscriminately. Although many of them were later released without any formal charges, they still had a police record. This is particularly true for young people as drug abuse which attracts a criminal record is on the increase among this age group. Young people with criminal records found it extremely difficult to seek gainful employment.

I have had a lot of young people come to me because they have a drug offense and nobody will give them a job. That is something that we have to change (Hamid, MDP MP).

On the other hand, lack of gainful employment is seen to be one of the reasons why people turn to drugs and other types of criminal behaviour.

We are also finding that children that are involved in criminal activity are those that are unemployed. Most of the children have dropped out of schools, but some of them are those that have finished school but are still unable to get a job as it is now not possible for everyone who finishes school to find employment. We feel it is a number of such social problems that are turning young people towards crime. Usually these children that

finish school and are unable to get a job start going out on the streets with their friends because they have nothing to do and are bored and this is when they become involved in drug abuse and so on. That is how some of them start. After that they commit crimes to support their habits (member of police team).

As DeLuca et al (2010) suggest, the mismatch between the lack of necessary skills to obtain competitive employment and the type of education that young people receive play an important role in young peoples' employment. Bari, Policy Secretary in the Nasheed Government explains the situation in the Maldives.

One thing I noticed in the 1990s is that in the school system, the young primary and high school graduates did not get an opportunity to express what they want – think about what they want to do in their communities and think about how they can create jobs and everyone as a result geared towards getting an academic education – O' level, A' level and then get a PhD. We clearly saw that there was a gap in terms of matching the schools to technical education and job creation. Every time we went to an island we saw that next year one secretarial job would be created and a clerk job would be created and that is the expectation of the people and it happened because Government was able to create two or three jobs a year and it is only two or three people who will come out or qualify for that job. So as a result that gap was filled and there was no additional demand. Where there was an additional demand people moved to the tourism sector, when it expanded (Bari, Policy Secretary in Nasheed Government).

As explained in Chapter 2, in the Maldives there is a rising expectation among youth for professional remunerative jobs. The mismatch between young people's expectations and the relevance of the education that they receive were explained by the Vice-President, Dr Mohamed Waheed.

I think one of the biggest issues for young people is that the education itself may not be as relevant as it should be for the futures that they have to live in the Maldives. As a result there is a great mismatch between education

and employment. A lot of young people are unemployed and young people do not have a way of getting themselves usefully occupied. I think partly the reason is education, the relevance of education. The other problem is when they come out, even those who do well, do not really have enough opportunities to proceed, especially for O' level completers. So after O' level they have very little. They are only 16 years old and they are legally still children, and there aren't enough opportunities for them to go through continuing education to follow more technical, vocational or artistic education (Waheed, Vice-President in Nasheed Government).

During the Gayoom Government, the focus of the education system was on universalising primary education. Once that was achieved, the Government emphasis was on achieving universal secondary education. Very little emphasis had been given to provide young people with the necessary skills for employment in the workforce, and the education system was not geared to develop these skills through the national curriculum. This has created a skills gap in the economy while young people themselves view skills training with disdain as they all aspire towards white collar jobs. Although some vocational training facilities existed then, more emphasis had been placed on academic education. Identifying this as a shortcoming, the current Nasheed Government has pledged to increase skills development programmes for young people. Mariyam, a senior official in the Nasheed Government, in charge of developing the technical and vocational education, explains:

What happens in the Maldives is when young people come out of schools with GCE O' level and A' levels they do not have the necessary skills required by the workforce. Vocational training still has a low status in the community and we are trying to show that people trained under these programmes have an alternative pathway to employment. However, we have found that even if young people want to get a job, sometimes their parents are not too keen on young people going into certain sectors. Some young people don't feel the need for learning a skill and they also don't have the need to get a job because they are being supported by their families (Mariyam, Labour Ministry official in Nasheed Government).

Some interviewees suggest that increasing youth unemployment was a result of lack of demand, the lack of a proper work ethic among young people, and parental attitudes that make young people not want to go out and get a job and become responsible citizens.

In our society, and I think this is true of most South Asian societies, young people that complete schooling and come out don't have the need to get a job and earn for themselves. Their aunt or uncle or someone in the extended family will feed them and a sister will let them sleep in their house, so there is absolutely no need for them to go out and get a job and earn a living. So it is OK if they don't get a job and so it becomes difficult for young people to become responsible citizens (Ibrahim, Higher Education Minister in Gayoom Government).

The absence of a minimum wage and the availability of cheap expatriate labour from the region, including countries like Bangladesh, Sri Lanka, India and Nepal, as explained in Chapter 2, are other significant contributors towards unemployment in the Maldives.

Children who do the O' levels for instance do not want to work at a blue collar job. For example today's youth will work in menial jobs only if they can earn a very large salary. Quite often these jobs are taken up by expatriate workers as they work for much lower salaries. Even the employers do not want to employ Maldivians because they are not punctual and they demand better salaries, which reduce their profit margins. There is also the problem of parents not believing that you need to get a good result in the GCE examinations to get a good job. However, their attitude is that if you have finished high school, irrespective of the grades you get, you are entitled to the same types of jobs (Athif, member of SLP).

Given these attitudes of school leavers, the availability of cheap and abundant expatriate labour, and the lack of necessary skills among the locals, employers have found it easier to employ expatriate rather than local labour.

There aren't even any opportunities to get the skills required for employment. On top of that it is cheaper to employ expatriates and there aren't enough skilled local workers even in the tourism industry. From a business perspective there is a trend to employ expatriates because it is much cheaper. But, if there were enough skilled workers in the country, then pressure groups could lobby to stop employment of expatriate workers (Ibrahim, Higher Education Minister in Gayoom Government).

Anecdotal evidence suggests that employers find expatriate labour to be more manageable than local labour because expatriates stayed on the job and worked longer hours than locals.

I think the disappointment for young people comes mainly from the frustration of not being able to find useful employment. It's not because jobs are not there, but also because the employers themselves are finding it so much easier to bring in an expatriate. This is also cheaper and docile (Waheed, Vice-President in Nasheed Government).

As one respondent suggests, given the increasing trends of globalisation, the problem of expatriate labour is unavoidable, but at the same time, it brings with it, a whole host of social problems as well.

We are very much a closed family type of place and suddenly within a short space of time we have all these people as workers and that is something that even the Government finds difficult to control because it is a part of globalisation. The only thing that the Government or anybody can do is to face it with a rational mind and manage it well. But we haven't been able to manage it. So the expatriate workforce is something that is badly managed. In fact, the impact of this is hidden. It has brought with it a lot of human rights exploitations such as sexual exploitation, violence and financial exploitation (Hamid, MDP MP).

Increasing expatriate employment has become a vicious cycle whereby locals now feel that some of the jobs that the expatriates do are not suited for them. It

has also added to the crime rates on the capital, Malé, and has led to gross human rights violations as well.

Another problem is the increase in expatriates in Malé. This trend and the jobs that these expatriate labourers do are now seen by Maldivians as jobs that are not suitable for them. In fact these labourers live in fairly pathetic conditions and are paid fairly low wages and this is not something that either their employers are going to change or young people will aspire towards. It is not possible for the Government to provide all the 8,000 or more students who complete school every year with jobs and because we have so many illegal expatriate workers here, they will take up really menial jobs and these jobs then become something which young people don't want to do (member of police team).

Although none of the respondents mentioned it, in recent years, a number of human rights abuses related to expatriate labour have been highlighted by international human rights observers. Since the Maldives was one of the fastest growing economies in South Asia, it had become a primary destination for migrant workers. Some of these migrant workers are subjected to trafficking in persons, where the primary form of trafficking is forced labour (Robinson, 2010). As mentioned above, the exploitation of migrant workers in this manner has resulted in the US State Department placing the Maldives on the Tier-2 watch list (US State Department (2010a). According to the US State Department's Trafficking in Person's Report 2010, the Maldives did not comply with the minimum standards for the elimination of trafficking in persons. The Report also highlighted that the Maldives lacked systematic procedures for identifying victims, and did not take concrete action to protect victims and prevent trafficking (US State Department, 2010a). According to the Human Rights Commission of the Maldives, there has been a dramatic increase in the numbers of illegal migrant workers in recent years, and their illegal status makes them hesitant to express their grievances to the relevant authorities (HRCM, 2010).

Poverty and Inequality

Shaheed and Upton (2008) suggest that during the past 25 years, as striking as the growth in per capita income is the growing inequality in the distribution of wealth in the Maldives. This fact was highlighted by a number of my respondents. Some respondents suggested that the existing inequalities in the distribution of wealth in the society during the Gayoom Government as one of the contributing factors that led to people being unhappy and disillusioned. Given the considerable rates of overall economic growth that the Maldives had experienced during Gayoom's rule, they considered that the problem of unequal income distribution between Malé and the atolls and between certain powerful elites and the rest of the people were inevitable in increasing the growing discontent among the larger majority of the populace. According to Weidel (2011), global poverty, not only directly harms the poor, but harms everyone. This was confirmed by one respondent who suggested that even though he was successful in his own right, the understanding that others would envy his success was one of the reasons why he participated in the opposition movement and played an active part in bringing about a political change, even though he had to pay a heavy price for it by being jailed in the Black Friday Protests.

If you live in a society, there should be harmony in that society. If some people are so rich and the others are hopeless then what is the point having all this material wealth. If I work hard and become successful and have all this material wealth, but if my neighbour doesn't have anything, what will happen? He will come and have a go at you. You are finished then. Also look at what the Gayoom Government did to us when we say something or talk about these things. But our kids have access to satellite TV and the internet, and they will have much more to say. So I felt that for their sake too that I had to participate in the opposition movement and try and get things sorted out (Ali, prominent businessman and MDP activist).

As another respondent, Eva further explained, during the Gayoom regime, because of the state control of the media and the constant propaganda, people were ignorant that their plight was a direct result of the Government's policies.

During Gayoom's Government, people were conditioned into thinking that their situation, their hunger, or their poverty, had no direct links to what the Government did. Instead, what MDP has done is to make people aware that their situation was a result of Government policies (Eva, MDP MP).

Some respondents suggested that the poverty and inequalities that existed in the Maldives were a direct result of deliberate policies used by the Gayoom Government in order to keep people dependent rather than becoming self-reliant. This type of paternalism is common of many South East Asian countries, as suggested by Sim (2001). For example, since there were no formal social welfare programmes during the time of the Gayoom Government, if someone was sick and needed to go overseas for treatment, they had to seek financial assistance through friends and family, or they had to appeal to President Gayoom personally, by writing to him. This was seen as a form of social control. Bari, Policy Secretary in the current Nasheed Government who had worked with the UN system and the Gayoom Government explains his experiences.

During my time with UNDP, I am one of the people who worked with the communities, indirectly bringing change through poverty reduction programmes, educating the poor, trying to give them some freedom, to raise their voice, to have better development so that they can be self-reliant. But Gayoom was totally against the communities becoming self-reliant. He knew that if communities became self-reliant, then he was no longer needed. So any day that a community becomes self-reliant he knows that people will go against him. People will start criticising him, people will want more things. So his system was designed in such a way that no community becomes self-reliant and the communities are dependent on him and development takes place only when he gives things, not when the community acquires or develops things. So I clearly see that he has purposely planned this. I remember the resistance coming from his relatives and good friends against these principles we advocated in the communities and they knew that one day if this approach is continued that

people will start saying things against him and then his popularity will be lost (Bari, Policy Secretary in Nasheed Government).

According to Forbath (2005), constitutional democracy is impossible without some limits on social and economic inequality. Since the current Nasheed Government came to power on a human rights platform, as soon as they came into power, they introduced social welfare programmes to protect the most vulnerable groups. Presently, they have welfare programmes for the elderly, the disabled and single mothers. During my field work, which was during the first few months of President Nasheed taking office, the programme had only applied to the elderly. This was highlighted by Zuhaira, an MDP activist, in her interview.

For instance, the pension of Rf 2,000 per month which is being given to elderly persons over 65 years of age by this Government is a big help to these people. They are also provided free medical care services (Zuhaira, MDP activist).

As Forbath (2005) suggests, without the means to subsistence, the poor cannot begin to attain education and decent work or participate in civic life.

Access to Education

Education is considered a fundamental human right essential for the exercise of all other human rights. According to UNESCO (2011), it is a powerful tool by which economically and socially marginalised adults and children can lift themselves out of poverty and participate fully as citizens. It promotes individual freedom and empowerment and yields important development benefits. In the Maldives, education has been given relative importance since the 1960s. Literacy rates are high at 99 per cent and as indicated above, universal primary education was achieved in 2002, while secondary education is over 90 per cent. With the universalisation of primary education and the rapid expansion of secondary education, the number of school leavers increased, although this was not matched with increases in employment opportunities.

I feel that with the universalisation of primary education, and the expansion of secondary education throughout the country, a number of children come out of schools and then have no opportunities either for further education or employment. So they have nothing to do (Ibrahim, Higher Education Minister in Gayoom Government).

Every year there are more than 8,000 students graduating from secondary schools and the places available locally for post-secondary or higher education are still very limited (United Nations, 2011). Therefore, most in search of higher education opportunities leave to institutions abroad. As Ibrahim, leader of SLP suggested:

Most people will tell you that the most pressing problem for youth is drugs. But I think there is a much bigger issue. They don't have a proper education, they don't have role models, they don't have the means to become independent and they don't see a future for themselves. I think that is at the core of youth issues (Ibrahim, leader of SLP).

Although Article 36 (a) of the 2008 Constitution provides for the right to education without discrimination of any kind, many of my respondents felt that there were inherent problems with the lack of inclusivity of the education system. According to them, the education system was geared in such a way that it tended to discriminate some segments of the society.

The way the education system is set up, it does not allow slow learners, failures and drop-outs any alternative options (Aishath, Youth Minister in Gayoom Government).

The lack of alternative opportunities for young drop-outs made them disengaged, and quite often they became a problem group in the society, becoming increasingly involved in gang behaviour and criminal activity especially as they have no personal space or any avenues for healthy

entertainment and recreation. This was highlighted by a member of the police team that was interviewed.

On the whole the majority of the children that are brought into our custody are those that have dropped out of schools. Some of them may be registered in some of the private schools, but then these are children that don't attend. If we look at the statistics, most of them are school drop-outs who have left school after Grade 5 and those that are seeking attention. We have found that these kids usually join gangs because they can't get jobs since they don't have a proper education. And, it is usually these vulnerable kids that the gang ringleaders bring under their wings and get them to commit various crimes. The ringleaders help organise them as groups and would provide work to support them. So they are able to earn and once they start earning, they start competing with each other. This is when fighting between these different gangs start (member of police team).

Although universal primary education has been achieved, availability of quality education is a problem in the Maldives (HRCM, 2010). One interviewee commented on the lack of qualified teachers, which she felt contributed towards young people's disaffection with the education system.

At the moment our youth don't seem to have any focus in life and do not value their place in society. I think this is largely because our teachers, especially our primary school teachers are not very qualified and they fail to provide the students with the necessary guidance (Mariyam, Labour Ministry official in Nasheed Government).

As mentioned above, as well as being a right in itself, the right to education is also an enabling right (UNESCO, 2011). Education creates the opportunity for people to develop skills, capacity and confidence to secure other rights. Some of the interviewees talked about their own educational experiences and how it had played an important role in them becoming activists for political change.

From the time I was at school, some of my teachers who had been educated overseas were talking about how some of the policies, or rather some of the things that were happening in the Gayoom Government, were not good. So this idea was already planted in our minds that there was something wrong with the [Gayoom] Government (Saeed, Cabinet Secretary in Nasheed Government).

Other respondents expressed their frustrations at not being allowed to play an active role in bringing about a change for the betterment of the country on their return, even after they had been sent overseas for their education by the Government.

I thought that after my graduation that I would be able to do very good things for the Gayoom Government. I was among one of the few graduates trained in my particular area – demography, and I started working in the Ministry of Planning. I had hopes and I wanted to do things, but when I started working I saw that things were not open to us. We were in our twenties and we had seen good things in other countries and we wanted to do new things that our country could benefit from. (Bari, Policy Secretary in Nasheed Government).

Given the dissatisfaction with the education system and its impact on young people, the Nasheed Government, soon after it came into office, tried to bring about a change. As President Nasheed explains:

I am trying to tackle this through a number of measures like having single session schools and to bring them more activities and space and so on. These are our objectives (President Nasheed).

Further measures that were taken by the Nasheed Government included the setting up of a Technical Vocational and Employment Training (TVET) Programme, and providing opportunities for young people to gain much needed skills to make them employable.

The TVET Programme aims to teach skills required by the workforce so that we can provide skills training to young people and to get them employed. What happens in the Maldives is when young people come out of schools with GCE O' level and A' levels they do not have the necessary skills required by the workforce. One of the visions of the TVET programme is to show that this is an alternative route to an individual's self-development and career development. Through this programme an individual will ultimately be able to move up the career ladder. The TVET programme has a twin approach. People can develop skills while being on the job and they can also consider this as an alternative path to academic training (Mariyam, Labour Ministry official in Nasheed Government).

The TVET programme is aimed at supporting both the right to education as well as the right to employment.

The TVET programme can play a major role in training young people for jobs. We are not going to play games. In the past a lot of these things had been done for political reasons and this has resulted in these activities not being sustained (Saeed, Cabinet Secretary in Nasheed Government).

It has, however, had its fair share of objections and resistance.

Even now a lot of people even in the Government believe that an academic education is more superior to technical and vocational training. We are designing this system so that young people who go through our trainings also have opportunities for further education in the academic field as well. We are trying to introduce vocational education into the school system and we are also trying to make our programmes accessible to people of all ages. But our initial focus is for young people as they are the ones that are currently in greater need as their numbers are also greater. TVET is a parallel pathway and is not an option that is available only for those who fail schools or dropouts. This is the image we are trying to create now. At the moment people look at TVET programmes as second best (Mariyam, Labour Ministry official in Nasheed Government).

The TVET programme is concerned with the acquisition of knowledge and skills for the field of work. Recently the Government has established an institution called the Maldives Institute for Vocational and Technical Education (MIVET) specifically to serve this purpose (United Nations, 2011).

Health: Problem of Drug Use

Although the Constitution guarantees the right to health in the Maldives, under Article 23, health care accessibility is an area of major concern, especially in the islands other than Malé. These islands consist of very basic health care facilities, and because affordable and scheduled transport services between islands have not been sufficiently established, specialised medical care remains costly and time consuming for most island populations (HRCM, 2010). According to the empirical materials generated, although health, and especially equality of access to health care services, is a significant problem in the Maldives, not many of my interviewees identified health *per se* as an issue that they were concerned with. However, a number of my interviewees spoke about the issue of drug use, which has been a growing problem, especially among the youth. One respondent, however highlighted the fact that the right to health was one of the important issues that she was concerned with and stated that overall the health sector was the sector that she had most problems with as there did not seem to be any significant progress in that area.

The health sector is the sector which I have the most problems with, personally. I don't know if it is because I am not aware, but there just doesn't seem to be any improvements. I don't even know how it can be improved. For instance how can doctors provide a better service if there is insufficient equipment in the hospitals? In the atolls, there are no doctors and no equipment. Health is one of the most immediate needs for everyone. If you are sick you have to get treatment, and may be that is why weaknesses in this sector are so obvious (Eva, MDP MP).

Inadequacy of available health services was not the only issue in terms of the right to health. Since the Maldives' population comprises largely of young people,

there was also a problem with the need for the country's health sector to meet their demands. This was becoming increasingly important due to the impact that drug use was having on young people's health.

I think we need to pay attention to youth health issues: have more outlets for health services, which are youth-friendly and which have services that they need. There are a number of issues with young people's health related to drug use. Not only issues of mental health, but also issues related to social behaviour such as sexually transmitted diseases. We have to be a lot more open and less ideological with these programmes. So health issues are of course important. (Waheed, Vice-President in Nasheed Government).

Many of the respondents in this research were concerned with the issue of increasing drug use. According to UN reports, drugs such as "brown sugar" (a crude form of heroin) and hashish oil are easily available on the streets of Malé (United Nations, 2010). Drug use and abuse often lead to specialised treatment, and this has significant impacts on the health system. Almost all interviewees acknowledged that the drug problem needed to be addressed.

The drugs issue is something that needs to be tackled very slowly and carefully (Eva, MDP MP).

Many felt that the problem of drug use was closely related to the issue of lack of space due to overcrowding and congestion discussed above. Living arrangements of young people from other islands that come to Malé in search of education and employment, as well as the lack of appropriate venues for young people to socialise and engage themselves in activities that they were interested in, also contribute to the drug problem.

If the Government can provide regular venues and space for physical activities like music, then a lot of young people could do productive and useful things instead of turning to drugs. A lot of the kids are from other islands and they don't live with their parents, so they are not supervised

well and they behave in a fairly 'loose' way. They start with smoking cigarettes and then they move on to drugs (Athif, member of SLP).

Many respondents agreed that increasing drug use was behind most of the current social problems such as gang behaviour, street fights and murders.

Usually these children that finish school and are unable to get a job start going out on the streets with their friends because they have nothing to do and are bored and this is when they become involved in drug abuse and so on. That is how some of them start. After that they commit crimes to support their habits (member of police team).

Some of the interviewees felt that not enough was done by the Government to tackle the problem of drug use. According to Stevens (2011), people whose freedom to choose whether to use drugs is compromised by compulsion, have a right to be treated. In the Maldives, 80 per cent of the prison population are drug offenders with approximately 30 per cent serving life sentences for drug related offences (United Nations, 2010).

Drugs have led to formation of gangs and this has led to murder on our streets. Not having enough space in the drug rehabilitation facilities and in jail does not mean that these issues should not be addressed (Athif, member of SLP).

One respondent suggested that the drug problem, although it started out among young people from well-off families, was now not confined to a certain class.

In our society, it is kids from rich families that have gone into drugs – started experimentally. I did a focus group among the different wards of Malé with different kinds of people, including businessmen, employed people and unemployed people. From these discussions, only one reason came up. There are no class, education or cultural differences among drug users. The kids that didn't use drugs were only those whose parents kept tabs on what their kids did. These kids felt that it will shatter their parents

if they did drugs. That was the only reason we found in Malé (Aishath, Youth Minister in Gayoom Government).

The hopelessness and disenfranchisement that young people in the Maldives generally face today for various reasons explained above was another contributing factor for drug use according to some of my respondents.

Life is meaningless for young people. They don't have any opportunities to build a life. The education system is in shreds. They have no opportunity to study further and with the increasing wealth, parents try to please children with money and material things. When we were kids our parents were struggling to make ends meet. Kids now will have the most expensive mobile phones and the latest sports car to go around town with their friends and then they don't work. All these lead to drug use and related violence and crimes (Ibrahim, leader of SLP).

NIDA (2011) suggests that drug abuse and addiction have negative consequences for individuals and for society. It has significant economic impacts, including productivity, as well as health and crime-related costs. It also has public health and safety implications such as family disintegration, loss of employment, failure in school, domestic violence, and child abuse.

Children as young as 8-9 year olds have been introduced to drugs, but the proportion of those children is still minimal. It's still not that large. So we can still address the issue of these children and that's what we should be concentrating on to save the future. Because if we put all our resources in rehabilitation to rehabilitate 30,000 people in a country where we have an economy this fragile, it would be a huge risk considering that none of the richest countries in the world have had a very successful rehabilitation story. Even if we concentrated on intervention, it is also successful to the extent of demand. None of the countries in the world have been able to prevent the problem. So even that is not the area we should be concentrating on. We should be concentrating on rapidly building a better social framework (Ali, diplomat in Nasheed Government).

Many opposition activists had criticised past Government efforts at tackling the issue of drug use. In fact the Gayoom Government's attitudes to not acknowledge the seriousness and the extent of the issue (Shaheed & Upton, 2008) has raised questions on whether this was a form of social control that was used deliberately by the Government to stop young people from becoming involved in politics. It has also resulted in a lack of distrust on the effectiveness of rehabilitation services that have been provided by the Government.

Many people don't believe the effectiveness of rehabilitation. I think part of the problem is that they have not seen it work very well here. It doesn't mean that rehabilitation is unimportant. It's just that they haven't seen it work in the Maldives. So we need to strengthen our rehabilitation programmes, improve their quality and have better people working in there – more qualified people, have continued after care and support for children so that they can come out; also have these people gainfully employed. Otherwise there is no future (Waheed, Vice-President in Nasheed Government).

Lack of space and housing issues have been seen both as a cause and an effect of increasing drug use in the country. Effective rehabilitation of drug users has also been linked to the lack of space on Malé.

The most difficult thing is rehabilitation. Drug users who have been to rehabilitation also come back to the same situation as before and then they relapse. They can't go to another community. Instead they have to come back to the same street corner. They go back to their old friends and there is no entertainment so they go out on the streets again and go back to the same routine (Ibrahim, Higher Education Minister in Gayoom Government).

In the Maldives, the vast majority of drug users are young, and criminalisation of young drug users and the imposition of severe sentences is a particularly serious problem (United Nations, 2010).

The drug law needs to be revised. A sentence of 25 years in jail for a first time offender for drug use is too harsh and the existing law doesn't even differentiate between pushers and traffickers. So that needs to be revised. In fact it is very easy to get drugs in jail. So once they are sent to jail, they come out worse off (member of police team).

The problem of criminalising drug use was also mentioned by some interviewees. The current legislation creates misunderstanding and victimises drug users.

First of all I think there is a lot of misunderstanding about it because drug users are considered criminals. We need to try and decriminalise it. It requires changes in the law, and more importantly changes in attitudes and people's awareness of the issue. Lot of very young children are being pulled into drugs now. So it's becoming younger and younger. It's starting to happen in schools (Waheed, Vice-President in Nasheed Government).

The existing drug laws coupled with past neglects in adequately catering to the problems of rehabilitation and treatment of drug users had made this one of the most pressing problems in the country. Since the drug problem was seen by many of the participants as a problem that has its roots in a whole host of other problems, much is needed to be done by the current Nasheed Government to alleviate this problem.

The current [Nasheed] Government's approach seems to be very holistic. They are addressing issues that seem peripheral, but in reality if those issues are resolved, solving the drug problem would become easy. So they are addressing the social systems – housing, decentralisation, education – they are addressing all of those issues and it's a very holistic approach. They are not saying that we are doing this to address the drug issue. But they are talking about issues that will alleviate the quality of life. So they are, yes, doing what is necessary to solve this problem but they are not doing it directly. The end result would be that it would be easier to solve the drug problem in that environment. Trying to solve it in the present environment will be a waste of time. But if you achieve those other goals,

then solving the drug problem would be more fruitful. So, yes, I think they are going about it the right way. Over 40 per cent of our population are young people. Of the 40 per cent, almost 30 per cent are delinquents, either addicts or delinquents. We have an entire generation that is at risk. Currently there are three generations of users, and one generation that is totally destroyed. The extent of the problem is ghastly (Ali, diplomat in Nasheed Government).

Efforts are being made by the Nasheed Government to move from a path of imprisonment to a path of rehabilitation for drug offences. New detox centres have been established, and existing laws are being revised to tackle the issue. Attempts are also being made to reintegrate drug offenders into the society, by providing them training and job opportunities.

Climate Change

Although the issue of climate change and its impacts were not raised by any of the respondents of this research, documentary analysis indicates that this was an issue of significant human rights concern for the Maldives. As mentioned in Chapter 2, the effects of climate change due to global warming impact the very survival of the Maldives as a nation. According to the classification of human rights described in Chapter 3, climate change by its very nature should be part of solidarity or collective rights and as such belong to the third generation of rights (Ife, 2008; Weston, 2006). However, in the case of the Maldives, the vulnerability of the country to its physio-geographic, economic and demographic features make climate change an important issue towards the fulfilment of the rights to development and the right to survival of its people (MFA, 2008: 14).

According to Limon (2009: 440), international interest in the linkages between climate change and human rights is a relatively recent phenomenon that arose from the general frustrations on the part of vulnerable communities at the slow pace of progress in tackling climate change using the politico-scientific approach and the growing sense that with the scientific consensus in

place, it was time to shift the debate onto the victims of the problem due largely in part to the lack of an accountability mechanism to deal with a phenomenon caused by man and with devastating human consequences. Gardiner (2004) suggests that politically, the most common objection raised on climate change is that of scientific uncertainty. However, according to the Intergovernmental Panel on Climate Change (IPCC), global warming does not seem to be uncertain in the technical sense. While many factors continue to influence climate, scientists have determined that human activities have become a dominant force, and are responsible for most of the warming observed over the past 50 years (IPCC, 2007: 97). Effects include an increasing frequency of extreme weather events, rising sea levels, droughts, increasing water shortages, and the spread of tropical and vector-borne diseases (MEE, 2011).

In 1987, the Maldives first issued warnings about climate change to the UN General Assembly, and on 28 March 2008, together with 78 co-sponsors from all regional groups, secured the adoption, by consensus, of the UN Human Rights Council Resolution 7/23 on “Human Rights and Climate Change”, which stated explicitly that climate change “poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights” (Limon, 2009: 444). For the Maldives, global warming and climate change, if unchecked, could result in sea level rise which could ultimately completely immerse the Maldives, resulting in the extinction of the state, violating the fundamental rights of the people to possess nationality and the right to self-determination. Without land or state, the most basic rights to life, liberty and security of person, to possess property, to work and to leisure, to an adequate standard of living, and to participate in the cultural life of the community, cannot be realised (MFA, 2008). Paavola and Adger (2006: 596) suggest that climate change burdens especially those populations who are already vulnerable and struggle with current climate variability and extreme weather events. According to MFA (2008), there is evidence that sea level rise is already impacting the Maldives, and if current trends continue, its impacts are expected to worsen over the next century.

Extreme weather events such as storm surges that partially flood the Maldives also have implications for the enjoyment of human rights as flooding results in the loss of land and interferes with the right to means of subsistence, the right to adequate and secure housing, the right to property, the right to water and sanitation, and the right to health (MFA, 2008). In addition, continued warming of land and sea temperatures could undermine the health, basic subsistence and the livelihood of the people. Increasing temperatures could lead to an increase in water and vector-borne diseases; threaten subsistence from harm to fisheries; and threaten livelihoods due to coral bleaching which affects both the fisheries and the tourism sectors (MFA, 2008).

Both the Gayoom and Nasheed Governments have highlighted the special vulnerability of small island states to the predicted climate change, and succeeded in getting attention to this issue in the international arena. To call attention to climate change and its impacts on the Maldives, President Nasheed held the world's first underwater cabinet meeting in the Maldives in October 2009 (MEE, 2011), and in 2010, pledged to make the country carbon neutral by 2020 in order to reduce its net carbon emissions (Rafeeq, 2010). In 2011, a documentary feature film highlighting the Maldives' efforts to combat climate change and rising sea levels premiered at an international film festival in Toronto (Scott, 2012). Although the Maldives is among the least emitters of greenhouse gases, thereby contributing least to climate change, President Nasheed believed that the developed countries were not the only ones who must bear the burden of emissions cuts. The right of developing countries to lift their citizens' standard of living does not absolve them from their obligations to the planet (Doherty, 2012).

Conclusion

In this chapter I have presented findings with respect to economic and social rights or second generation human rights drawn from the empirical materials gathered for this research. Until recently, in the Maldives, second generation rights were considered to be more important than first generation rights. One of the core objectives of the Government was improving the quality

of life of the people, and this was achieved through rapid socio-economic development. In terms of economic and social rights, the issues which were of major concern to the participants of my research were issues related to housing, lack of employment opportunities, poverty and inequality, access to education and health care, relating especially to drug use. However, documentary analysis indicated the importance of the issue of climate change and sea level rise due to global warming, which threatens the very survival of the nation.

The demographical composition of the country with a 40 per cent youth population, places a number of challenges in terms of service delivery. The right to adequate housing falls far short of meeting the standards as the equivalent of 85 per cent of the households in Malé did not meet them. This impacts over one-third of the total population of the Maldives. The lack of employment opportunities, especially for young people, was seen as one of the fundamental issues that affected socio-economic rights in the Maldives, with employment related complaints constituting the largest number of complaints received by the Human Rights Commission of the Maldives. Despite the constitutionally guaranteed right to fair work, weak legislation and cheap expatriate labour from neighbouring South Asian countries make implementation of this right difficult in the Maldives. In addition, issues of violations of rights of migrant workers have placed Maldives on the Tier-2 watch list of the US State Department for human trafficking.

Gross inequalities in the distribution of wealth, combined with the rapid growth in per capita income have created growing discontent among the majority of the population. Lack of employment opportunities further compound this problem. This has led to social disharmony and even violence with increasing gang behaviour among the youth. Increased access to education has not translated to increased job opportunities, with mismatches between skills required for employment and the education provided. The geographic spread of the country coupled with lack of scheduled transportation makes accessibility to health care difficult. Increasing drug use has added to the burden of providing quality health care. The susceptibility of homeless young people to

dependence on drugs, mental health disorders, medical problems, and violence and victimisation has resulted in compromises in achieving economic and social rights in the Maldives. Issues of climate change and sea level rise threaten the very existence of the country. Findings related to cultural rights will be presented in the next chapter.

7

CULTURAL AND RELIGIOUS RIGHTS

Introduction

This chapter presents and discusses the findings related to cultural and religious rights. As elsewhere, religious and cultural rights are intertwined in the Maldives. Cultural rights, together with economic and social rights, relate to second generation human rights. As identified in Chapter 5, although religious rights do fall under the category of civil and political rights which states that freedom of thought, conscience and religion is a core right which is indispensable to human dignity, and which legally require absolute protection, I have chosen to include religious rights under this chapter as part of second generation rights. This is because religion plays an intrinsic part in the Maldives culture and traditions, and as such it would be difficult to separate it from cultural rights in a study on the Maldives.

Cultural rights are human rights that aim at maintaining beliefs and practices of culture assuring the enjoyment of culture and its components in conditions of equality, human dignity and non-discrimination. According to Article 2a of the *Fribourg Declaration on Cultural Rights (2007)*, the term "culture" covers those values, beliefs, convictions, languages, knowledge and the arts, traditions, institutions and ways of life through which a person or a group expresses their humanity and the meaning they give to their existence and to their development. According to Jenks (1993), culture gives meaning to life, and determines a good deal of human behaviour. Since culture is seen as a critical determinant of human behaviour, human emotion and human well-being, it is important that cultural aspects of human rights must be taken seriously (Ife, 2008: 69).

Cultural rights have been gaining new importance and by the end of the 20th century, they were seen as 'empowering rights', whose recognition and observance, as well as implementation, are seen as fundamental to the guaranteeing of human dignity and the full implementation of human rights. Symonides (1998b) argues that without the recognition of cultural rights, cultural plurality and diversity, fully democratic societies cannot function properly. This, however, creates the notion of cultural relativism, accepting the idea that a person belonging to one culture should not judge the policies and values of other cultures, effectively rejecting the idea of universality of human rights. According to Symonides (1998b), while the cultural translation of human rights is necessary, the 1993 World Conference on Human Rights adopted the Vienna Declaration by consensus, confirming the universality of human rights and rejecting the notion of cultural relativism. The universality of human rights is, as explained in Chapter 3, still a much contested debate especially among the Muslim world. According to An-Na'im (1992), it is the lack of sufficiency of cultural legitimacy of human rights standards that is one of the main underlying causes of violations of those standards.

As I have stated in Chapter 6, unlike first generation rights, legal and constitutional mechanisms are not readily guaranteed for second generation rights and, therefore, the idea of human rights abuse or violation is less readily applied to these rights (Ife, 2008). Cultural rights are the least understood and developed of the rights that have been guaranteed under international law. This seeming paradox is due to the complexity of the area and the fact that attention has been given only recently to economic, social and cultural rights as a whole. Laaksonen (2004) suggests that for a long time, cultural rights have not been a central theme in the agenda of public policies but were viewed as rights or values which added to other processes. According to her, cultural rights have traditionally been considered as rights related to national, linguistic and cultural minorities, where the concept of culture is used as the basis of behaviour and the sense of belonging that integrates elements of collective and individual memory, traditions, social formulas and forms of human creativity (Laaksonen, 2004). In this sense, culture is considered important when presented in a form

of introduction or framework but rarely as a fundamental element to the well-being of communities.

According to Ayton-Shenker (1995), every human being has the right to culture, including the right to enjoy and develop cultural life and identity. However, she suggests that the right to culture is limited at the point at which it infringes on another human right, as, in accordance with international law, no right can be used at the expense or destruction of another (Ayton-Shenker, 1995). This suggests that cultural rights cannot be invoked or interpreted in such a way as to justify any act leading to the denial or violation of other human rights and fundamental freedoms. As such, claiming cultural relativism as an excuse to violate or deny human rights is an abuse of the right to culture (Ayton-Shenker, 1995).

With the increasing impacts of globalisation and the resulting integration of markets, emergence of new regional political alliances, and remarkable advances in telecommunications, biotechnology and transportation, there is an increasing confluence of peoples and cultures resulting in the breakdown of old conventions, traditional cultures, fundamental values, and the familiar, seemingly secure, sense of one's identity. Without a secure sense of identity amidst the turmoil of transition, people may resort to isolationism, ethnocentrism and intolerance. The breakdown of old conventions and changing values and norms in the society were of concern to a number of the respondents of this research. After analysing the data gathered, I present my findings under the following four broad themes: changing social values; growing religious extremism; alienation and social exclusion; and increasing anti-social behaviour and gang violence. Although some of the themes identified may not immediately appear to relate individually to either cultural or religious rights, analysis of my data suggests that these themes do have an impact on the political transitions that are taking place in the Maldives to become a human rights respecting nation, and therefore are relevant to this chapter.

Changing Social Values

Cultures are historically dynamic and not stagnant. The dominant beliefs and attitudes in a society change; and while maintaining elements of continuity, the prevailing culture of a society in one generation may differ significantly from that of one generation or two generations earlier (Huntington, 1991). According to Huntington (1991: 30), cultures evolve and the most important force bringing about cultural changes is often economic development itself. With the advent of modernisation, and the rapid socio-economic developments that the Maldives underwent from the late 1970s, a number of the interviewees believed that the social values in the country had changed significantly, and this they felt had a huge impact on young people in the society. As explained in Chapter 2, in the past, the Maldives had maintained its own culture and traditions largely due to the lack of colonial rule and its relative isolation from the world community. Recently, although the country experienced high rates of economic growth and prosperity, most of the interviewees considered the changes in the local culture negatively.

We don't bring up youth as responsible citizens. We don't have that kind of a value system now. The whole thing has disintegrated or started disintegrating. The social fabric has been totally torn apart (Nasheed, independent MP).

This breakdown in social values is considered to be a consequence of a number of other related issues such as the breakdown of the family unit, lack of good role models, increasing urbanisation, opening up of the country to foreign influences, globalisation, and the influence of satellite TV and the internet. The reasons for the changing cultural and social values were reflected upon by Saleem, the Human Rights Commissioner.

Part of the problem is the breakdown of families, the over-crowded housing situation, migration to Malé, and the problems that these migrant kids face. The houses are small and crowded that even parents don't want all the kids to be in the house at the same time. These problems force kids

on to the streets, where they get into unnecessary trouble. Another problem is that of divorce and breakdown in families. Lack of proper parenting leads to lack of discipline. So parents are equally responsible in not inculcating proper discipline in their children. Also it is not taught in schools (Saleem, Human Rights Commissioner).

Ayton-Shenker (1995) suggests, the end of the Cold War created attempts to define “a new world order” with the international community entering a period of tremendous global transition where previously isolated people are being brought together voluntarily and involuntarily by an increasing integration of markets, emergence of new regional political alliances, and remarkable advances in telecommunications, biotechnology and transportation, resulting in a confluence of people and cultures in an increasingly global, multicultural world brimming with tension, confusion and conflict in the process of its adjustment to pluralism. According to Ayton-Shenker (1995), without a secure sense of identity amidst the turmoil of transition, people may resort to isolationism, ethnocentrism and intolerance. This can be manifested in different types of behaviour, which in many Asian societies can be expressed as a lack of discipline. The issue of lack of discipline reflects what some Western scholars suggest about many Asian societies being the home of “illiberal democracy”, the product of a cultural heritage that stresses the tutelary and disciplining role of the state and the law as guides for citizen’s behaviour rather than as protectors of individual rights (Bell, et al, 1995).

Changing social values can be attributed to the high rate of economic growth that the Maldives experienced during the Gayoom Government. Economic development involves high levels of urbanisation, literacy and education; and often brings with it a shift in the occupational structure, with a decline in the peasantry and the development of a middle class and urban working class (Huntington, 1997). With increasing urbanisation and the in-migration of population to Malé, the lack of breakdown in community oneness was observed by some interviewees.

Breakdown in the 'community' affected young people. People became distant from one another and this became a huge problem for our young people. When we were young all the kids living on the street would all come out and play together. Now with the overcrowding and the need for sharing homes, even within the extended family, each family sticks to their own rooms even within the same household (Aishath, Youth Minister in Gayoom Government).

The rapid urbanisation and the resulting in-migration of population to Malé also resulted in changed living conditions for many families, which had a profound impact on how young people were brought up in the community.

Families are forced to live together in very cramped and crowded small rooms which make it very difficult for parents to keep their children inside the house and sometimes they themselves have to ask kids to go outside because when one child wants to study the other might want to watch TV and so on. In situations like this it is very difficult for parents to instil discipline and control children's behaviour (member of police team).

Peoples' living conditions as a result of the increased overcrowding and congestion on Malé and the inequalities between the atolls and Malé were significant factors in the changing of people's attitudes and values, and contributed towards the growing discontent with the Gayoom government.

We all want to have a better life and it is quite disgusting in many senses to think that people in this country have to live like this (President Nasheed).

As Weir (2006) suggests, social justice cannot be achieved without a balance in power, and power is a commodity that is in short supply among the poor and disadvantaged. According to him, low incomes are closely associated with all forms of exclusion, especially from being engaged in a productive, socially valued or political activity (Weir, 2006: 232). He suggests that if the lives of people are to be improved, people and communities have to be given a chance

to do things for themselves by providing them enforceable rights to the basics of modern life (Weir, 2006).

The overcrowded living conditions and the lack of physical space resulted in a shortage of recreation and entertainment facilities in Malé has meant that a large majority of the people lacked access to basic services which would provide them their economic, social and cultural rights. An example of this was highlighted by one of the interviewees.

If the Government can provide regular venues and space for physical activities like music, then a lot of young people could do productive and useful things instead of turning to drugs (Athif, member of SLP).

As in the previous chapter, the availability of space is a recurring theme. The lack of space for entertainment and cultural activities were also cited by law enforcement officials as one of the reasons why people resorted to anti-social behaviour.

Having entertainment opportunities available for young people would certainly reduce their involvement in anti-social behaviours. A lot of the time they become involved with the wrong type of people because they have nothing to do. In fact we had been told by one young person who we had taken into our custody that he was a student who had been in Malaysia and had returned to Malé, and he told us that he had thought about what he could do to spend his day in Malé. In Malaysia he said he would go and hang around some shopping centre on a Sunday and then go to a movie or something and then return home after having dinner out. But he said there was absolutely nowhere to go and nothing like that to do in Malé. He was saying the only place to go in Malé was from home to the beach and when he goes there he meets these groups of drug users. He was asking why it is that the Government has not built a decent cinema in Malé so that young people could at least go and watch some of the latest English movies and enjoy themselves (member of police team).

The Nasheed Government faces a dilemma with regard to providing better entertainment and recreation facilities for young people because of the pressures of its coalition partner, the Adhaalath Party. This was highlighted by some respondents.

Young people seem to have too much spare time on their hands with nothing to do. Lack of entertainment opportunities is a major problem. Providing entertainment does not necessarily mean opening night clubs, but even on New Year's Eve, the Minister for Islamic Affairs banned all dances and discos in Malé. It doesn't have to go from one extreme to the other. We should provide more opportunities for young people in terms of entertainment (Ibrahim, Higher Education Minister in Gayoom Government).

Growing inequalities amongst the people were seen as another contributory factor in changing social values and people's attitudes. Huntington suggests that, "democracy is incompatible with total economic equality, but it is also incompatible with gross inequalities in wealth and income" (Huntington, 1997: 5). The growing inequalities between various segments of the population in Malé were one of the issues highlighted by some of the interviewees. The following excerpt from one of the interviews highlights the problem of gross inequalities in various neighbourhoods in Malé.

In other countries people choose neighbourhoods to live where there are support groups, and the community welcomes you. They also have 'rites of passage' initiatives where you are made to feel a part of the community. In Malé, the neighbourhood can consist of a rich neighbour alongside a very poor one. This can lead to envy. There are no support networks or any relationships. So people ignore what is happening and think only of their own survival. For instance, if you see a drug deal happening on the corner of the street, you just ignore it. Community safety is no longer your issue (Aishath, Youth Minister in Gayoom Government).

According to An-Na'im (1992: 20), dominant groups or classes within a society normally maintain perceptions and interpretations of cultural values and norms that are supportive of their own interests, proclaiming them to be the only valid view of that culture. Inequalities and differences between various groups can thus create social discord and result in a lack of social harmony, which is essential for maintaining peace and harmony within the society.

If you live in a society, there should be harmony in that society. If some people are so rich and the others are hopeless then what is the point of having all this material wealth (Ali, prominent businessman).

As Kabasakal Arat (2006: 431) suggests, cultures are neither monolithic nor static. Furthermore, with the rapid modernisation and socio-economic developments that the country had experienced from the late 1970s, society's expectations were believed to have changed.

Our expectations from life, including young people's, are very high. Maldivians want to be millionaires overnight and I feel they want this because we have had such rapid economic development in such a short period of time. In other countries like Australia or China for example, farmers are happy to remain farmers all their life, generation after generation. In Maldives, we aspire to become rich and to obtain material things such as houses, cars, etc. (Aishath, Youth Minister in Gayoom Government).

The impacts of modernisation and trends of materialism associated with globalisation were being felt in the Maldives. Globalisation tends to homogenise world cultures and through that constitute a threat to diversity (Escobar, 2004). At the same time, according to Escobar (2004), globalisation can result in deepening bipolarities between different phenomena (including faith) and economic regions. This was seen by some of the respondents as a deepening divide, particularly between generations. As Ibrahim, a Minister in the Gayoom Government explains:

One problem which I feel young people face is that there are no good role models. If you turn to sports there are a few, but in other areas there are very few good role models, particularly in terms of their discipline. So there aren't enough people that young people can aspire to be. Young people also don't do any volunteer work these days. In the past they used to have Scout and Girl Guide volunteer activities which helped make young people more responsible. We have now become very self-centred and this is a problem not just with the young people, but of society as a whole. We have become very materialistic too (Ibrahim, Higher Education Minister in Gayoom Government).

It is interesting to note here that young people's aspirations to better themselves and to have a voice in expressing their dissatisfaction with the way things were done, was seen as lack of respect and discipline by respondents who had held senior positions in the Gayoom Government (Field Notes, 2009).

Another factor highlighted by some interviewees in contributing to the breakdown in social values was the role played by the media. Through the mass media, international ideas and values were being mixed and imposed on the national culture. This international spread of culture was seen by Symonides (1998b) as another dimension of globalisation, apart from its economic dimension. Certain cultural attitudes such as modes of dressing were becoming global trends, and although the adoption of common values and behavioural patterns reinforces the universality of cultural rights, they were also seen to undermine existing cultural identities and weaken various ethical norms, social cohesion, as well as the feeling of belonging, thereby contributing to the proliferation of various internal conflicts.

Even the media does not show any programmes that can inspire young people to become responsible people. There are no quick solutions (Ibrahim, Higher Education Minister in Gayoom Government).

In the Maldives, the Government enjoyed a virtual monopoly over radio and TV during the Gayoom regime. Control over the print media was exercised rather

discreetly through ownership and government subsidies. For example, the three daily newspapers, Aafathis Daily, Haveeru Daily and Miadhu Daily were owned by ministers in the Gayoom Government.

Another factor which interviewees pointed out as having an impact on social values were the political developments that had taken place in the country and their impact particularly on young people. With increasing pressure from the international community on whom the Maldives depended heavily for foreign aid, particularly since the 2004 Indian Ocean Tsunami, multi-party politics was introduced in the country in 2005. The voting age was lowered to 18 years, political parties were allowed to be formed and extensive drives were held by party leaders to recruit members to their parties. This resulted in politicians realising the need to mobilise the large youth demographic to recruit members for their parties. Young people had been largely ignored by the Gayoom Government earlier and did not have a voice or say in the development of the country. But since 2005, and especially in the lead up to the Presidential elections of 2008, they were being increasingly wooed by politicians.

I think we also need to look at the whole issue of youth and politics. I think in the Maldives it is becoming much more important, and part of people's lives than probably any other country, because we have now brought down the voting age and political parties are mobilising young people, raising their expectations. They are becoming part of the political process. My fear is that after the elections – presidential elections, for example, we have not been able to do very much for young people. We may have raised unrealistic expectations and because we are unable to address those, the reaction to that could be detachment. Again young people are losing hope (Waheed, Vice-President in Nasheed Government).

As Sidoti (1998) suggests, the lowering of the voting age could reverse the trend for scapegoating young people for various social problems, and instead redress the power imbalance for their inclusion in society's decisions. According to Sloam (2007), the key to engaging young people lies in addressing issues that

concern them, increasing their sense of empowerment, heightening their knowledge about the political system and ensuring direct contact with political actors.

Growing Religious Extremism

Since the Maldives adopted Islam during the 12th century (Heyerdahl, 1986), this religion has been considered to be part of culture. The Maldives is probably the only country in the world that claims to be 100 per cent Muslim. As explained in Chapter 2, according to the Constitution, Islam is the official state religion, and a non-Muslim may not become a citizen of the Maldives. In the past, Islam, the national language, Dhivehi and common cultural practices have been considered uniting factors contributing to the social cohesion of the Maldives population. In the Maldives, religion was considered a vital element for guaranteeing national unity.

Although the Maldives has been a Muslim state for centuries, Maldivians prided themselves on the liberal type of Islam they practised. Perhaps due to the Maldives' relative isolation and the fact that religion was not used as a tool for governance, this remained true up until the 1980s when Islamic law and moral codes started to be introduced (Helvikivi, 2001). Today, Islam has become one of the divisive factors of Maldivian society.

We used to be a fairly moderate society and we didn't use to talk about religion in the past. But everyone would still pray and would even fast during Ramadan, yet no one would talk about somebody praying or not praying. We didn't make a story out of it. Things were like that before in this society (Saleem, Human Rights Commissioner).

Freedom of religion is severely restricted in the Maldives, and the Constitution precludes non-Muslims from voting and holding public positions, which contravenes obligations that the Maldives has undertaken when signing several international conventions such as the ICCPR. However, when signing the ICCPR, the Maldives made a reservation against Article 18 on freedom of

thought, conscience and religion to the effect that the application of the principles set out in the article shall be without prejudice to the Constitution of the Maldives. Few respondents of the study talked about issues of religion possibly because of its 'taboo' status. Religion has always been a taboo subject in the Maldives. The few who talked about it, mentioned it in terms of an increasing concern with growing extremism and fundamentalism that was creating disharmony in the society. However, document analysis indicated that religion played a significant role in the enjoyment of human rights in the Maldives. In fact, as indicated above, religion played a key role in restricting the Maldives' from domestication of international human rights law.

As explained in Chapter 2, the 1970s saw the introduction of radical Islam in the Maldives after a few scholars returned from their studies in Saudi Arabia with Wahhabi ideology. On their return, these scholars were unable to practice their radical Islam in the country as they were arrested and jailed. So even though extremist Islamic ideology existed, its impact on the community was minimal, and religion was largely considered a private affair. However, in November 1978, after Gayoom, an Islamic scholar, came to power, he consolidated executive and religious authority in the Maldives (Waheed, 2009; US Department of State, 2009). Gayoom's reason for consolidating religious authority was largely to ensure the homogeneity of the society.

During Gayoom's tenure as President for the next thirty years, extremist religious groups in the country were targeted, with their leaders exiled or imprisoned to ensure that his version of Islam took root in the Maldives (Amir, 2011). This use of Islam as a political tool by the Gayoom Government and the consolidation of executive and religious authority by the state, however, resulted in the lack of respect for religious freedom and an upsurge of radicalisation of Islam leading to the introduction of religious extremism in the Maldives (Upadhyay, 2008).

For the next thirty years, Gayoom carried out an Arabisation of the Maldives culture (Romero-Frias, 1999). At the same time as the Arabisation was

taking place, many young scholars (mostly male) were sent to be educated in Islamic institutions abroad. Some of these youths have come back to the Maldives with radicalised religious views and attitudes. Their views underpinned President Gayoom's rhetoric warnings of religious (Christian) infiltration from outside. This fostered fertile ground for xenophobia in general and discrimination and intolerance against non-Muslims (mainly Christians) in particular.

When President Nasheed came to power, in an attempt to separate religion from politics, he handed religious authority over to a newly created Ministry of Islamic Affairs, which was headed by a religious scholar from the Adhaalath Party. As explained in Chapter 2, the Ministry of Islamic Affairs, replaced the Supreme Council for Islamic Affairs of the Gayoom Government. However, since the Adhaalath Party (a coalition party of President Nasheed's Government) is an Islamist party consisting of members who mostly believed in radical Islam, religious intolerance has continued to increase in the Maldives (Waheed, 2009).

With the Maldives joining ILO in 2009 and President Nasheed's Government trying to be more tolerant towards people of other faiths that are in the Maldives as migrant workers, the Adhaalath Party members accused the Government of trying to introduce religions other than Islam into the country. Increasing clashes between the Government and Adhaalath Party resulted in a termination of the coalition agreement between them and the MDP in 2011 over the issue of allowing an Israeli airline to fly to the Maldives (Nazeer, 2011). Since then the Adhaalath Party has been levelling accusations at the Nasheed Government claiming they are un-Islamic.

The increasing xenophobia and the use of religion as a political tool was highlighted when all opposition parties, under the leadership of the Adhaalath Party, united and held a mass demonstration in Malé on 23rd December 2011 ganging up against the ruling MDP accusing the Government of trying to introduce other faiths to the Maldives. These demonstrations were not only a

result of the Government considering allowing an Israeli flight to operate, but was also over the issue of the UN Human Rights Commissioner, Ms Navi Pillay making a speech in parliament calling for the need for the Maldives to debate the use of flogging of women for extra-marital sex, which she described as cruel and inhumane (Seddon, 2012; Chandrasekharan, 2012a). The increasing radicalisation of Islam has been a growing concern for the largely moderate, Western educated youth of the country.

Some years ago, we were told as Maldivians we had to be Muslims. Then the Government started to narrow it down and asked us to be Sunni Muslims. Now for my child Sunni Muslim is not good enough, he is taught to follow Islam the Salafi way (an unidentified interviewee quoted in Forum 18 News Service, 7 December 2009).

The rapid progress in terms of its socio-economic development during Gayoom's thirty-year rule resulted in the opening up of schools throughout the country, making education accessible to the masses. Religious teaching in the schools was heavily regulated and based on a curriculum that was approved by the Supreme Council for Islamic Affairs, an authority that allowed permission only for certain people to speak about Islam in the Maldives. Once schooling is completed, due to lack of tertiary educational facilities in the Maldives, many students travel overseas to further their education. In this way, a number of members of the judiciary had been trained in countries which only practised strict Islamic Shari'ah. This created a lot of strife and conflict between lawyers who had been trained in Western countries and those who had been trained on the Shari'ah model (Shaheed & Upton, 2008). It also resulted in issues being raised on the liberal laws that had been practised in the Maldives for centuries; with more demands being made for stricter Shari'ah laws to be implemented since the Maldives was a 100 per cent Muslim state. Shari'ah law in the Maldives is not codified and is a matter of debate, subject to various interpretations. Some interpretations clearly violate international human rights standards. These interpretations favour the rights of men over those of women and discriminate against non-Muslims as has been described in Chapter 2. By referring to

Shari'ah law in the Constitution, the Maldives weakens its commitments to adhere to human rights standards and the international commitments it has voluntarily undertaken (US State Department, 2010b).

In 1994, President Gayoom introduced a Protection of Religious Unity Act (Law No. 6/94) which regulates all aspects of religion in a way that it ensures religious homogeneity, severely curtailing freedom of religion. The Act forbids any activity that is intended to split, disrupt, jeopardise or disunite the social and religious order and harmony dominant among Maldivian citizens (Jory, 2005). Maldivian non-Muslims and Maldivians who do not wish to practice Sunni Islam in the state-approved way had to hide and even deny their convictions and beliefs.

Fundamental rights such as freedom of expression and a free media were unheard of for most of Gayoom's rule. Access to media to spread religious information was confined only to those approved by the Supreme Council for Islamic Affairs. The head of this Council was an Islamic scholar who had been trained in Saudi Arabia and who was believed to privately preach Wahhabi ideology. The voice of moderate Islam which had existed in the Maldives for centuries was never heard on public TV or radio or even in the print media (Waheed, 2009). People were afraid to talk about religion in the public domain. They were afraid to be labelled as un-Islamic. There had even been a few instances where journalists who had written about religious issues had been imprisoned. These journalists included not just liberals, but also those who called for more radical practices such as women being only allowed to stay at home and not work in public. Effectively, this enabled Gayoom to ensure that his version of Islam took root in the Maldives by eradicating all conflicting ideology (Waheed, 2009). What it did in actual fact was make the Maldives society intolerant towards differences in opinions and practices. One of the basic teachings of Islam is that there is no compulsion in faith (Hunter, 2009; Masmoudi, 2003). If this were the case, then what the Gayoom Government did in disallowing differences of opinions and state interference in controlling the way people practised their faith is certainly un-Islamic and undemocratic. It

bred intolerance among Maldivian Muslims and it certainly bred hatred and intolerance towards people of other faiths. Maldivians are under the impression that there is no freedom to choose one's religion. Here is how one Maldivian, who preferred not to be identified for fear of reprisals, explained the situation to Forum 18, a Norwegian human rights organisation that promotes religious freedom.

Few Maldivians do understand religious freedom. I also believed that there is fear among many that to consider religious freedom is equivalent to being blasphemous (Forum 18 News Service, 7 December 2009).

According to Ibrahim (2006), Islam has always expressed the primacy of *'adhl*, or justice, which he suggests is a close approximation of what the West defines as freedom. He further suggests that certain elements of constitutional democracy and civil society such as freedom of conscience, freedom of expression, and the sanctity of life and property, are moral imperatives in Islam as demonstrated very clearly by the Qur'an and the teachings of the Prophet Muhammad (Ibrahim, 2006). By restricting freedoms, the Gayoom Government had inadvertently created disaffection and disengagement among certain groups of the society, who had been exposed to various freedoms that their Western counterparts enjoyed either through their education, the internet or satellite TV, thus driving a wedge between them and the Government. This had a particularly strong impact on the youth, making them vulnerable.

Once they became vulnerable, mentally and psychologically, or socially vulnerable, there were two main predators. One was extremism and the other was drugs. And if one looks carefully at the path that Maldivian youth have taken, we will see that these two are the two predators that have really beefed up. On the one side, we have a very rapidly growing drug addicted population, and on the other side, we have rapidly growing extremist group who believed in violent Jihadism (Ali, diplomat in Nasheed government).

Religious extremism is a global phenomenon that the Maldives had managed to escape until recently. The events of 9/11 in the US and the subsequent War on Terror, as discussed in Chapter 3, had important ramifications for the Maldives, especially because much of it was played out in the Maldives' neighbourhood of South Asia. As explained in Chapter 2, crimes committed in the name of Islam against believers of other faiths hardly existed in the Maldives (Niyaz, 2010). But, in the wake of the Sultan Park bombing in Malé in September 2007, people finally started to realise the magnitude of the change in the religious perception of Maldivian society. The Maldives police revealed that out of the 16 terror suspects in connection with the bombing, 10 suspects who masterminded the operation were Maldivian youth who had connections with radical Islamist terror groups in Pakistan (Niyaz, 2010). This trend in involvement of Maldivians in terror plots was mentioned by one interviewee.

We have terrorism in our midst. Terrorism operates outside the legal system and we are very vulnerable to this as you know from the bombing incident we faced recently. Even in the Mumbai incident. There are always references to us. Even in Guantanamo Bay and Chechnya they have identified Maldivians participating in terrorist activities. So this is not good for us. I mean internationally (Hamid, MDP MP).

Larsen (2009) suggests that the election of Mohamed Nasheed as President in October 2008 was hailed as the dawn of a new era of democratisation and freedom. Under former President Gayoom, the once religiously tolerant Maldives was changed into a society intolerant of all beliefs except state-approved Sunni Islam. Nasheed won the elections depending on an alliance of the opposition, including the religiously conservative Adhaalath Party. Religion became one of the main focuses of the 2008 presidential election campaigns. Not only did parties like Adhaalath and Islamic Democratic Party (IDP) start making use of religious claims in politics. Other parties, without an overtly religious basis, also started using religion as a political tool.

Religion, in the hands of politicians, has transcended its spiritual role, and entered the domain of fear in the Maldives. The rhetoric of the Mullah has reached a point where the media – the fourth pillar of democracy and the defender of free speech – has spinelessly retreated into a shell of self-censorship and servitude (Rasheed, *Minivan News*, 29 March 2011).

Often unnoticed is that religion is a politically sensitive issue in the Maldives and President Nasheed had excluded it from his reforms (Larsen, 2009a). Larsen (2009a) suggests that the new Government's commitment to human rights does not include freedom of religion or belief, which also touches such rights as freedom of expression and freedom of association. By giving the most conservative Islamic party, Adhaalath, political control over religious affairs, President Nasheed has opened the door widely to more religious discrimination.

Nasheed has been saying a lot of things that are good, but he has not been able to deliver on his pledges. For instance Gayoom Government did control the fundamentalists. But now the Government has an agreement with the Adhaalath Party and they have given them the Islamic Ministry and it has been just left up to them to do whatever they want. Now the Government is not saying anything against these fundamentalists. So we seem to be allowing this. I don't think this is a very good practice in a society like ours, even though this may be the democratic thing to do. Religious extremism is as I see it a bigger threat than politicians. They seem to have a free hand now (Ibrahim, Higher Education Minister in Gayoom Government).

Excluding religion from the list of attributes for which people should not be discriminated against (Article 17 of the Constitution) is a very significant omission in the Maldivian context. The Government not only sanctions religious discrimination but underlines the religious discriminatory nature of the whole Constitution. Larsen (2009a) suggests that unless the new Constitution is brought into line with international standards, the nationalistic view of identity

created during Gayoom's Government will be further entrenched, and Maldivian society will forget that it was once a religiously tolerant society.

The Maldives has also entered a number of reservations relevant to the freedom of religion or belief in many of the international treaties that has been signed. The UN Special Rapporteur on freedom of religion or belief, Asma Jahangir, after her visit to the Maldives from 6 – 10 August 2006 said that "religious freedom is vigorously denied and the few that dare to raise their voices are denounced and threatened" (Jahangir, 2007). Recently, however, many Maldivians have started to voice their concerns in anonymous weblogs as the fear of social ostracism and government punishment inhibits people from voicing their concerns openly. According to Larsen (2009a), Muslim and non-Muslim Maldivians expressed the view that under President Nasheed they had obtained religious freedom. They defined this as freedom to discuss religious issues related to Islam. According to Callaway and Harrelson-Stephens (2007), humanity comes first before culture and traditions, and Bauer (2003) suggests that Muslim thinking and culture are not homogenous. In the Maldives, there is strong social pressure to adopt a radicalised Islamic identity. This causes moderate (tolerant of other faiths) Muslims and other Maldivians to think that their only chance of being able to exercise their fundamental rights is to leave their own country. Here is how it was explained to Forum 18 by one of their interviewees:

If I teach my child that Islam respects all human beings as being equal, his Islam teacher states that women are inferior. My child is taught that women who follow true Islam stay at home and don't go to work. In other words, my child is taught in school that his mother is not following true Islam. If I don't want my child to grow up with this kind of attitudes and thinking, I see no other way than to migrate (Forum 18 News Service, 7 December 2009).

Another issue which is of growing concern in the Maldives is the issue of religious freedom of migrant workers. Migrant workers in the Maldives are a particularly vulnerable group to failure of the state to protect freedom of

religion or belief. According to the Government, there are about 80,000 migrant workers in the country, half from Bangladesh with most others from Sri Lanka, India, Nepal and Indonesia. While most migrant workers from Bangladesh and Indonesia are Muslim, workers from other countries are non-Muslim (Buddhist, Christian or Hindu). Muslim foreigners do not generally suffer restrictions on their right to manifest their religion or belief as long as they practice Islam in the “Maldivian way”. But foreigners of other faiths have their human rights severely challenged. There is strict censorship of religious materials and even rights to practice their religion in private are limited due to the lack of privacy for most migrant workers (Larsen, 2009b). In May 2009, the Maldives joined the UN International Labour Organisation (ILO), and although migrant workers’ rights at work and working conditions fall under ILO protection, it is not their mandate to protect their religious freedom. Neither the Government nor the wider society is prepared to accept that the migrant workers should have the right to practice their faith freely in line with the country’s international human rights commitments.

Growing religious extremism also has implications for the justice system in the Maldives. The lack of a codified body of laws capable of delivering justice equally to all, vaguely formulated laws, as well as the lack of formal training in law of most of the judges has meant that the judges exercise considerable discretion in determining an offence and its punishment, often based on their own interpretation of Islamic Shari’ah (Amnesty International, 2012a). Article 10 (b) of the 2008 Constitution establishes Islam as “the basis of all the laws of the Maldives” (Hussain, 2008), and many Islamic scholars, including the Islamic Minister, are of the opinion that a tenet of Islam cannot be changed and a *hudud* punishment prescribed in the Qur’an cannot be dispelled with (Naish, 2011). Although the Maldives has not imposed *hudud* punishments such as the death penalty since 1953, from which time there has been a de facto moratorium on it, there have been increasing calls for its implementation and the strict enforcement of Shari’ah law in the Maldives (Naahee, 2012). The opposition has used every opportunity to continually harass the Nasheed Government,

accusing the MDP of being un-Islamic, continually politicising the role of Islam in the country.

Alienation and Social Exclusion

From my findings in the previous two chapters, it is clear that actions by the Gayoom Government had alienated a majority of the population in the Maldives. Economic and social changes that accompanied the rapid modernisation and economic growth impacted youth in a manner that marginalised them. Rapid urbanisation and fragmentation of families have upset the traditional space young people claimed in the society. Combined with a growing drug problem, tensions began to boil over in the last decade (Shaheed & Upton, 2008). In addition to this, lack of adequate housing, high unemployment rates, the absence of proper social safety nets, and the rapidly widening inequalities exacerbated social tensions (Shaheed & Upton, 2008).

Sloam (2007) suggests that young people's transitions to adulthood have in recent years become more complex, resulting in a broader set of concerns that affect their daily lives. When traditional indicators of adulthood such as marriage, children and secure employment have been increasingly delayed or set aside, they become trapped in a 'cycle of disadvantage' with little at stake in the society (Sloam, 2007). This deprives them of full social and economic participation (Savelsberg & Martin-Giles, 2008). Young people in the Maldives had thus become increasingly alienated and socially excluded.

According to Bottrell (2007), young people deal with differentiation and marginalisation in different ways, including both resistance and conformities. One of my interviewees explained an example of this in the Maldives.

One of the good things that did happen was when the Youth Ministry tried to expand its sports programme through their Youth Development Programme – "Sports for All". This allowed useful group formation. But the existing clubs and things like that were too elite and did not allow all kids

to participate. Even in schools, we had this group of teachers who were trained in Singapore who came back and tried to introduce clubs and activities like singing competitions which turned out to do the opposite of what they were supposed to do. In fact these allowed only a few kids to participate at the risk of most being alienated. And then these kids that could not participate in any of these activities felt rejected and turned to other alternatives like drugs and gangs (Aishath, Youth Minister in Gayoom Government).

In the Maldives, young people had been side lined by the Gayoom Government. A 2005 study found that young people did not have a voice or say in the way things were planned for them (MYDS, 2005). This affected their self-perceived sense of position in relation to politics. According to Ellis (2004), it is widely assumed that young people today are apolitical. However, as one interviewee suggests, it was the Government's attitude that excluded young people in the Maldives.

If you look at the youth, I think we have lost two decades of gap. Those who are now in their 20s and 30s never got an opportunity to discuss anything that they thought were good (Bari, Policy Secretary in Nasheed Government).

This attitude was widely seen as a controlling mechanism used by the Gayoom Government to retain power.

Gayoom did not give an opportunity for other people to become leaders and then create good leadership within the local communities within even in urban areas like Malé and he wants to continue like this for the rest of his life, which we did not believe in (Bari, Policy Secretary in Nasheed Government).

When young people did speak up, they were labelled as radicals, or sometimes even as delinquents. One of my interviewees spoke about a

conversation he had with President Gayoom's son-in-law on the question of political opposition in the Maldives.

I told him that the government has labelled us as radicals today. You would actually be seeing radicals in three years' time. I told him that then you would say that we are moderates. I told him that you are calling us radicals today because you haven't actually seen the radicals yet. I told him that the radicals are still behind the scenes and that once they come out in the open, you will think that we are moderates. Look at what has happened now. This is exactly what has happened today (Ibrahim, leader of SLP).

When young people did speak out about the Government, they were arrested and sent to jail. Often all young people were labelled as radicals, delinquents or drug users and this was very visible in the media. The Human Rights Commissioner expressed his frustrations at the blanket approach used by the Gayoom Government in punishing these young people indiscriminately.

Collective punishment shouldn't be given to all young people. If somebody does something bad, then action should be taken against that individual (Saleem, Human Rights Commissioner).

Increasing alienation and non-participation of young people resulted in them being disaffected. As McKendrick (2007) suggests, disaffection is often equated with anti-social behaviour, or high risk conditions.

In the Maldives it was not only the young people that were excluded by the Gayoom Government. As I have explained in the previous chapters, a number of older educated people expressed similar sentiments. Their frustrations at not having their voices heard or being able to contribute to the development of the country resulted in these people retreating to the side lines. Some of them resorted to exhibiting gang behaviour and violence, while others joined various religious radical groups. These types of behaviour were alien to the traditional culture and values of that the Maldives' society had known for centuries.

Increasing Anti-Social Behaviour and Gang Violence

As discussed in the previous two chapters as well, many of my interviewees were concerned about the increase in anti-social behaviour and gang violence in the Maldives today. This, however, is not a phenomenon that applies just to the Maldives. According to Hagedorn and Rauch (2007), internationally, gang violence has been increasing steadily over the past decade. In the case of the Maldives, a proliferation of gangs and a related increase in gang violence has been witnessed over the past few years (United Nations, 2010). Gang violence has caused deaths on the streets of Malé, something which was unimaginable in the Maldives until a few years ago. These types of behaviour were exhibited by young people. According to the police, a majority of the young people who were involved in gangs were those who had dropped out of schools and who had not completed their education and who consequently were unable to get a job.

If we look at young people who we take into custody, there are different categories of them. One group are those that commit hard core criminal offences. Others who commit offences are those that have already been incarcerated in jail, but who are out on the streets for various reasons either because they are in Malé for medical reasons or because they are on the run. The other category is gangs. If we look at them most of them are school drop-outs who have left school after Grade 5 and those that usually seek attention. Well known gangs in Malé like BG and Maaziya started out when their ringleaders helped to organise these school drop-outs as groups who would then look for work to support them. So these young people were able to earn, and once they started earning, they started competing with each other. This is when violence between these groups start (member of police team).

Bottrell (2007) suggests that social identity is central to young people's experiences and cultural management, and so they claim the margins as an alternative centre to obtain status, positive reputation and a sense of belonging. Some respondents associated the influx of gang violence with the breakdown of traditional social values and the fragmentation of families.

Actions you see today such as gang violence, I feel, are a result or backlash of community breakdown. Adolescents feel the need for affiliation. This is the time when kids try to break away from their parents and learn to become independent. This is a natural process. In other countries this breakaway occurs with friends or church groups, clubs, and so on. What happens in Malé is since there is no community; parents are reluctant to send their kids to friend's places. You never know what is happening especially if you don't know them. So kids are now unable to address the need for affiliation and group formation in a safe and wide environment. But if this need for affiliation is not addressed, then they start to form these kinds of unhelpful groups (Aishath, Youth Minister in Gayoom Government).

The rapid urbanisation and the related pressures of adequate housing was another factor which was believed to be associated with increased gang behaviour.

First of all there is not enough space at home now since the properties have been partitioned, so in order for young people to socialise, they now have to go out on the streets. So kids in the neighbourhood would gather on their street and this is the beginning of groups. This is how gangs are formed (Athif, member of SLP).

Hagedorn and Rauch (2007) suggest that housing, poverty and income inequality, drug use and police tactics influence anti-social behaviour and gang violence in urban settings. Although none of my interviewees had specifically mentioned all of these factors, my personal observations during this research as well as my professional experiences in the Maldives suggest that all of these factors seem to play an important role in gang behaviour and gang violence in the Maldives. According to United Nations (2010), although no studies have been done in the Maldives to analyse the rising gang culture, police and media reports note a worrying link between gangs and prevalent substance abuse.

One respondent suggested that the portrayal of gang violence in the media was a contributory factor as well.

Most of the TV programmes show a lot of violence including gangs and fights. Most Dhivehi films and all the Hindi films and series that are shown always show a lot of violence. So kids are constantly exposed to this kind of stuff. I think this is the reason why the problem has exacerbated. When kids turn into teenagers, they all want to be independent. They want to be different to others. By the time they reach this age, they are already out on the streets. So I believe that this is the reason why violence and other things have escalated so much. They want to copy what they see in the movies. This is how the problems start. When it starts, the others in the neighbourhood also become reluctant to stop it because they will come out with swords and knives, and if they try to stop it, then these gangs will go into their houses later and attack them. So people ignore these things. This is how young people have been spoilt now (Athif, member of SLP).

It has also been suggested that the Gayoom Government had not done enough to control gang violence.

Government has in the past concentrated on visible projects like infrastructure projects rather than trying to address social issues such as drug use and gang violence (Athif, member of SLP).

Concerned with the rising number of children involved in gang violence, both as perpetrators and victims, the current Nasheed Government is making a number of attempts to curb gang behaviour and gang violence. In July 2010, the Maldives Police Service conducted a special operation. They noted the alarmingly sophisticated *modus operandi* of the gangs (United Nations, 2010). A bill on Prohibition of Gang Crimes has been recently passed by the parliament. The increasing anti-social behaviour and gang violence among Maldivian youth plays a significant role in the Maldives culture today. It has created an atmosphere of fear among the general public, which restricts the enjoyment of the traditionally peaceful culture of the Maldives.

Conclusion

The findings presented in this chapter relate to cultural rights. It shows that social and cultural values are changing due to growing religious extremism and increasing alienation of young as well as older educated people. According to Shaheed and Upton (2008) and Waheed (2009), thirty years of neglect by the Gayoom Government to address issues of growing neglect of young people in the Maldives had resulted in a growing sub-culture among the youth, where anti-social behaviour and gang violence have become a norm in their everyday lives. These issues were major concerns for my interviewees. According to the International Council on Human Rights Policy, criminality associated with these types of behaviours pose a threat to the safeguard of human rights (ICHRP, 2003). In the Maldives, the surge in crimes associated with alienated young people has become part and parcel of the Maldives culture today. With the opening up of the country after its independence, the Maldives has experienced rapid economic and social development. As explained in Chapter 6, the breakdown of the traditional family unit and the rapid migration of people into Malé have led to changes in traditional social and cultural values. The increase in the numbers of the youth population, together with increasing modernisation has brought in new trends into the Maldivian culture.

Since the Maldives adopted Islam in the 12th century, it has played a significant role in the culture and traditions of the people. The empirical data gathered indicated that there were growing concerns over the increasing trend of religious extremism in the country. The September 2007 Sultan Park bomb incident confirms the increasing radicalisation of Islam in the Maldives. With the increase in the youth population, changing family norms, the lack of adequate housing, rising unemployment rates and the mismatch of education with available job opportunities, the cumulative effect of arbitrary detentions since 1990, and the international emphasis on human rights, the 21st century saw considerable growth in the opposition movement. Growing income inequalities and increasing trends of substance abuse resulted anti-social behaviour among young people and the introduction of a new sub-culture of gang violence. These trends have impacted on cultural and religious rights in the Maldives. According

to ICHRP (2003), research shows that rising crime and insecurity and changes to cultural norms are more prevalent in societies that are transitioning from authoritarian to a more democratic rule.

8

CONCLUSIONS FROM THE STUDY

Introduction

The timing of this study when the Maldives was at an important crossroads in its political transition has created a challenging and a rewarding journey. This thesis aimed at exploring the factors that have facilitated and inhibited the Maldives' transition to a human rights respecting nation. My field work coincided with a major breakthrough for human rights activists in the Maldives in terms of the coming into power of a democratically elected government for the first time in the history of the country. It also fell within the first year of the two year transition period that was required for the rolling out of the new Constitution ratified on 7 August 2008. Given the developments that have and are taking place in the Maldives since then, the significance of the many issues confronting countries that transition from autocratic to democratic rule were not experienced by my respondents then. However, newspaper articles, international and government reports and other empirical materials consulted have provided valuable data on a number of the issues confronting the Maldives since 2008. Using qualitative research methodology, a constructivist ontology and an inductive approach, the empirical materials gathered for the research were analysed by adapting grounded theory methods and interpreted through a human rights lens, using the International Bill of Human Rights.

In my review of the discourse on human rights I highlighted how human rights have become an important issue of global concern. Even a small country like the Maldives can no longer remain isolated or escape from the concerns over the observance of human rights today. The human rights framework used for the study highlighted that a number of issues concerning first and second

generation rights were significant factors affecting the development of respect for human rights in the Maldives.

Overview of the Findings

A single incident of human rights abuse can be a trigger for wider democratic and human rights reforms, if there is significant international pressure and a strong domestic opposition. This was clearly the case for the Maldives with the death of Evan Naseem in September 2003 while in custody. Even if there are debates about the meaning of human rights and what it means for different states and for different peoples, the 1948 Universal Declaration of Human Rights by the United Nations and the two subsequent international covenants that followed in 1966, namely the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), make human rights universally observable across member states of the UN. The observance of human rights is more acute in the current geopolitical climate of the 21st century where rapid economic, social, political, environmental and technological changes make it difficult for states to exist in isolation. Repression and denial of basic human rights result in seething discontent and organised activism to pressure autocratic regimes into democratisation.

In the Maldives, until the ratification of the new Constitution in August 2008, civil and political rights or first generation rights were fairly restricted and depended much on the whim of the President. Civil and political rights, however, are considered to be core and indispensable to human dignity, and legally, these rights require absolute protection by the state. For thirty years, President Gayoom, Asia's longest-serving ruler, was in power in the Maldives until the country held its first ever democratic elections in 2008. Gayoom's Government, greatly resistant to change, was characterised by issues of governance, fear and intimidation, human rights abuses, widespread corruption, failure of the criminal justice system and the lack of the rule of law. During his term of office, although there were significant improvements in economic and social development indicators nationally, there were increasing issues of

inequality between Malé and the atolls as well as between the few rich business and government elite and the average people. These issues had major ramifications for human rights respect in the Maldives.

During the period prior to the ratification of the 2008 Constitution, the President had absolute authority and there was no separation of powers between the executive, the legislature and the judiciary. Sham elections, electoral fraud and vote rigging was common place. Freedom of association was restricted until 2005 when political parties were allowed to register and operate in the Maldives. Public gatherings of over three persons without a two-week prior notice were considered illegal. Oppression and intimidation of political opposition as well as any forms of dissent was widespread. The media was controlled by the government and journalists were under constant threat of being arrested, detained or charged. Police brutality and inhumane treatment of detainees was common.

The arbitrary arrests, detention and torture, including police brutality and inhumane treatment of detainees by past governments had instilled fear and intimidation among the people. State-sanctioned discrimination of political opponents, victimisation of innocent people and the use of police power and torture to stay in power were some of the characteristics of governance prevalent in the Maldives. Fear of reprisals and trauma of the experiences undergone silenced the victims. Given this history of severe restrictions on civil and political rights in the country, even the adoption of the new Constitution in 2008, which included a comprehensive Bill of Rights, did not lead to any major improvements in respect for civil and political rights in the Maldives. Political opposition and rallies were followed by mass arrests, widespread torture and abuse, and harsh and severe punishments. The lack of respect for fundamental freedoms enshrined in the Constitution and the ability of the police to act with impunity were compounded by the lack of an independent judiciary and the failure of the criminal justice system.

The judiciary was characterised by the legacy of an authoritarian past where the president was also the supreme judicial authority. The legal system based on an amalgamation of common law and Islamic Shari'ah, the use of an out-dated penal code with existing laws incomparable to punishments, as well as the lack of a qualified and trained judiciary, resulted in discriminatory practices which were more harmful than beneficial. Problems with law enforcement, denial of a fair public trial, discretionary powers of crime prevention authorities and the corrupt and discriminatory practices by judges caused many people to become victims of the law, resulting in their incarceration and experiences of a criminal judicial system which fell far short of international human rights norms. Failure to address these shortcomings and the lack of comprehensive criminal reform legislation resulted in the lack of rule of law in the country, the foundation on which human rights respect is built on.

A paternalistic type of government, with domination of the elite, meant that there was little room for democratic participation in the decision-making process by the people. Decisions were made centrally in Malé, resulting in gross inequalities in the development of the atolls as compared to Malé. Discouragement of the development of civil society organisations, the lack of transparency or accountability in delivery of services, and the non-compliance of government officials to the rule of law resulted in widespread allegations of corruption. Ignoring of pressing social issues such as the increase in drug use and gang violence in favour of visible infrastructure projects to influence voters resulted in increasing discontent among the people. Social exclusion of young people, who made up the bulk of the population, in participatory planning, further compounded the problem of growing discontent.

During Gayoom's Government, there was reluctance on the part of the government to change. The government was not open to suggestions, instead opting to maintain the existing status quo. This resulted in increased frustrations and the alienation of the educated, as well as the youth. Adding to this alienation was the continued Arabisation programme espoused by the Gayoom Government, which preached values of intolerance towards "the other"

in contrast with the universalist trends that the country had known earlier, increasingly embracing a cultural relativist model which ignored or denied certain international human rights in favour of others.

Second generation rights or economic, social and cultural rights were seen as more important in the Maldives than civil and political rights. One of the core development objectives of the Gayoom Government was improving the quality of life of the people of the Maldives. This was reflected in the rapid social and economic progress achieved overall by the country during the last three decades. Dramatic declines were noted in the infant and child mortality rates, life expectancy at birth, literacy rates and school enrolment rates. In terms of economic development, the Maldives had the highest per capita income in South Asia. However, this high economic growth rate was not reflected in terms of income equality. There were widespread disparities in income between the capital, Malé and the atolls, as well as between the rich and the poor. These disparities fed into the growing discontent that was being experienced by the people.

Findings from this research highlighted issues related to housing, employment, poverty, education and health impacted on the fulfilment of second generation rights for a vast majority of the Maldives' population. The geographical structure of the country and the demographical composition of the population ensured their significance. Delivery of services were challenging because of these two factors. The issue of the right to adequate housing was considered as one of the biggest challenges that faced the Maldives and which impacted on a whole host of other social issues. Housing falls far short of meeting the international human rights standards as the equivalent of 85 per cent of the households in Malé did not meet them. This impacts over one-third of the total population of the Maldives. The lack of employment opportunities, especially for young people, was seen as another fundamental issue that affected socio-economic rights in the Maldives, with employment related complaints constituting the largest number of complaints received by the Human Rights Commission of the Maldives. Despite the constitutionally

guaranteed right to fair work, weak legislation and cheap expatriate labour from neighbouring South Asian countries made implementation of this right difficult in the Maldives. In addition, issues of violations of rights of migrant workers have placed the Maldives on the Tier-2 watch list of the US State Department for human trafficking.

Gross inequalities in the distribution of wealth, combined with the rapid growth in per capita income fuelled the growing discontent among the majority of the population. Income inequalities, together with lack of employment opportunities, further compounded this problem. This created social disharmony and even violence, with increasing gang behaviour among the youth. Increased access to education has not translated to increased job opportunities, with mismatches between skills required for employment and the education provided. The geographic spread of the country coupled with lack of scheduled transportation makes accessibility to services such as health care difficult. Increasing drug use has added to the burden of providing quality health care. The susceptibility of homeless young people to dependence on drugs, mental health disorders, medical problems, and violence and victimisation has resulted in compromises in achieving economic and social rights in the Maldives.

The impact of the global phenomenon of climate change adds another dimension to human rights issues in the Maldives. The vulnerability of the country to its physio-geographic, economic and demographic features makes climate change an important issue towards the fulfilment of the rights to development and the right to survival of the Maldives' people. Global warming and climate change, if unchecked, could result in sea level rise which could completely immerse the Maldives, resulting in the extinction of the State, violating the fundamental rights of Maldivians to possess nationality and the right to self-determination. Without land or state, the most basic rights to life, liberty and security of person, as well as the ability to exercise his or her economic, social and cultural rights cannot be realised.

Neglect by the Gayoom Government to address issues affecting young people in the Maldives and their increasing alienation and social exclusion had resulted in a growing sub-culture among the youth, where anti-social behaviour and gang violence had become a norm in their everyday lives. Lack of healthy entertainment and recreational facilities, globalisation and the impact of new and modern media have contributed to increasing youth disaffection. Criminality associated with anti-social behaviour and gang violence pose a threat to the safeguard of human rights. In the Maldives, the surge in crimes has become a part of contemporary Maldives culture today.

The rapid economic and social developments had resulted in the breakdown of the traditional family unit, lack of good role models and the rapid migration of people into Malé resulting in changes in traditional social and cultural values. Added to this, increasing trends of urbanisation due to lack of job opportunities in the smaller islands had brought in new trends into the Maldivian culture. Congestion and overcrowding had forced people to live in an inadequate environment where young people are continually exposed to neglect or abuse. Drug use and gang violence are common place today.

Religion plays an intrinsic part in the Maldives culture and traditions. From the 12th century when the Maldives adopted Islam, it had played a significant role in the culture and traditions of the people. From the latter part of the 20th century, trends of religious extremism had been increasing in the country. The consolidation of executive and religious authority by the Gayoom Government, the Arabisation programme, the attempts at instilling a singular doctrine of Islam, and the lack of respect for religious freedom and tolerance of “the other” had fuelled religious extremism. Fear of being labelled un-Islamic stopped the moderate voice being heard. The September 2007 Sultan Park bomb incident confirmed the increasing radicalisation of Islam in the Maldives and a new trend towards Islamic terrorism. These trends had been attributed to the Gayoom Government’s use of religion as a political tool.

By the turn of the century, growing discontent with the growing inequalities, the blatant abuses of human rights and the lack of fundamental freedoms and democracy, led a number of people to organise themselves into a formidable opposition. The human rights abuses suffered at the hands of the Gayoom Government united the opposition. Increasing awareness of the people and reluctance on the part of the Government to change resulted in continued clashes between the opposition activists and the Gayoom Government. Lack of political pluralism and the non-recognition of the opposition in the Maldives, forced a number of like-minded people to form an opposition party in exile. Through the use of modern media such as the internet, they continued relentless pressure on the Government, while at the same time mobilising international support for their campaign against the brutality of the Gayoom regime.

Continued international pressure by international donors and transnational advocacy networks, and the 2004 Indian Ocean Tsunami finally forced the Government to make tactical concessions and agree to introduce democratic reforms. Being heavily dependent on foreign aid, the Gayoom Government finally relented to external pressure, allowing for pluralistic democracy. As a consequence, the opposition grew bolder and became more formalised. The Maldivian Democratic Party (MDP), the first party to be registered in the Maldives, was not really convinced of the Gayoom Government's seriousness about bringing in the proposed reforms, and took to the streets of Malé, believing that direct action was the only way to bring change.

Meanwhile a number of activists continued to be arrested and were subjected to cruel and degrading punishments by the regime. In the meantime, transnational advocacy networks like Amnesty International and Human Rights Watch were keeping a close eye on the situation. Things came to a head in October 2008 when the MDP finally succeeded in winning the first democratic elections in the country. Mohamed Nasheed, a one-time Amnesty International's prisoner of conscience became the newly elected President in 2008. This change

in Government was the first step towards securing civil and political rights in the Maldives.

This study shows that the neglects of the past Governments, rather than the inherent structural problems and the attitudes of the people, were inhibiting the Maldives' transition to a human rights respecting nation. On the other hand, both domestic and international pressure on the state to adopt international human rights best practices were seen as contributing to the Maldives' transition. Modern methods of communication such as the internet aided this process. Although there was much resistance from the Gayoom Government to adopt human rights practices, the heavy dependence of the country on external assistance for its survival meant that the Maldives could not sustain either the "Asian values" or cultural relativist type arguments, in the long run. Transitioning to democratic governance is new to the Maldives and there is much to be done. The main challenge to the first democratically elected Nasheed's Government is to maintain the gains made particularly in terms of civil and political rights in a hostile atmosphere where his party lacks the required majority in the legislature to align the local laws with international human rights standards.

The Way Forward

Although human rights respect in the Maldives have been facilitated by public discontent, the role of dissidents and the change of government, it is inhibited by on-going poverty and inequality, unemployment, the rise of Islamic extremism, the lack of effectively functioning independent institutions that maintain checks and balances, and the absence of rule of law. In order for the Maldives to maintain respect for human rights, it is extremely important that the gains made so far are not lost.

International human rights norms seek and hold Governments, usually represented by the executive, accountable and responsible for human rights compliance. However, in practice this can become a difficult task, especially if all three branches of Government do not cooperate with one another.

Transnational advocacy networks and international pressure can create conditions for regimes to change. However, democratic elections and a regime change may not always result in the desired outcomes unless and when independent institutions and checks and balances required of a fully functioning democracy are in place. This is evident in the case of the Maldives where domestic opposition and international pressure created an atmosphere for the separation of powers and the introduction of civil and political rights -- the first 'baby' steps towards democratisation and human rights.

In the case of the Maldives, the separation of powers between the executive, the legislature and the judiciary in the current Government has resulted in two of the three powers working against human rights norms, while the new Government executive tries to maintain respect for human rights. With no means for either domestic or international pressure to be exerted on the legislature and the judiciary, the hands of the executive are pretty much tied in terms of effectively bringing in human rights respect in a nation that is new to these ideals. Lack of awareness among the general public on what human rights are and what respect for human rights would mean for the Maldives, is hindering the gains that have been made so far in achieving fundamental freedoms. The fact that the judiciary consists of judges who have in the past depended on favours from the Gayoom regime means that effectively there is still no independence of the judiciary as Gayoom is still a dominating figure in the opposition. With the opposition holding a parliamentary majority, there are no mechanisms for bringing in changes to laws that would make the rule of law effective in the country. Unless and until the judiciary is independent and everyone is subject to due process and equality before the law, respect for human rights is going to be a formidable challenge in the Maldives.

Islam is inextricably interwoven in the Maldives' culture and plays an emotive aspect in the hearts and minds of the average Maldivian. The use of religion as a political tool by the opposition to stop the Government from bringing in democratic changes necessary to comply with international human rights standards has been the biggest challenge faced by the Nasheed

Government in facilitating human rights respect. In order to become a more tolerant and human rights respecting state, the role that religion plays in politics needs to be considered carefully.

An additional challenge has been the reluctance on the part of the Nasheed Government to hold the past regime accountable for the human rights abuses that were committed with impunity during their rule. The difficulty with bringing the perpetrators to justice has been due to the on-going partiality of the judiciary. This creates additional tensions for the new Nasheed Government as they cannot effectively address allegations of corruption that are levied against their own officials. An independent and impartial judiciary and the rule of law is, therefore, absolutely crucial if the country is to progress towards a human rights respecting nation.

The media which is considered as the fourth pillar of democracy is also a further challenge in the Maldives. With the new found freedoms granted to them under the current Nasheed regime, they have been unrestrictive in their criticisms of the Government. Once owned and tightly controlled by the past Government they have now become vocal advocates for the opposition. Their new found freedom has been expressed without restraint or respect for responsible journalism. This has resulted in the creation of fear and hatred towards the Nasheed Government especially on issues such as religion where they have been propagating unsubstantiated claims that the new Government is trying to introduce religions other than Islam to the Maldives. Unless and until the media is totally independent and accountable, its role in supporting or facilitating respect for human rights in the Maldives is doubtful.

With a majority opposition in parliament, the Nasheed Government is crippled in getting through the necessary legislation to ensure domestic human rights compliance. Although Article 68 in the 2008 Constitution suggests the promotion of values that underlie an open and democratic society based on human dignity, equality and freedom which considers international treaties to which the Maldives is a party, Article 93 states that all such treaties have to be

approved by the parliament and shall come into force only in accordance with the decision of the parliament. It further states that citizens are only required to act in compliance with treaties ratified by the State as provided for in a law enacted by the parliament. This suggests that there is a critical need to strengthen the way in which international human rights law is enforced in the country. There is a need to educate both the lawmakers and the judiciary on the relationship between international law and domestic law and the status of international law in the domestic legal system as well as the role of domestic courts in relation to the application and upholding of international law. Unless individual parliamentary members can work towards the benefit of the people, rather trying to bring a legitimately elected Government down, true democracy and respect for human rights in the Maldives will be severely handicapped.

9

POSTSCRIPT

Introduction

Since the submission of this thesis for examination on 1 February 2012 and its finalisation in December 2012, a number of significant developments occurred in the political landscape of the Maldives which impact on respect for human rights in the country. Just six days after thesis submission, events broadcast live on TV showed a dramatic change over of government with President Nasheed resigning and his Vice-President Waheed taking over, only three years into the five-year term of the first democratically elected government in the Maldives. This unexpected changeover of power made headlines right across the world and has since proven to be an event that has divided the Maldives society, creating widespread conflict in the country.

Reaction to Democratic Governance

As mentioned earlier in the thesis, since President Nasheed was sworn in as the first democratically elected president of the Maldives in November 2008, there has been considerable opposition to his liberal rule from supporters of the former Gayoom Government as well as by Islamic extremists. With the loss of the parliamentary elections by the MDP in 2009, it had been a constant struggle for the newly elected Government to implement much of its planned programmes of modernisation and development targeted towards ushering in a modern liberal democracy that respected international human rights norms. As discussed in Chapter 8, many of the bills and legislation that were necessary to bring about changes in the system of governance that had been proposed by the Nasheed Government were either delayed through filibustering or changed beyond recognition by the opposition majority so that it was almost impossible for the Executive to carry out any of its activities. Challenging these developments through the judicial process was virtually impossible for the

Nasheed Government as the judiciary was largely controlled by appointees loyal to Gayoom and, therefore, the opposition.

The challenge for the Nasheed Government had been to maintain good performance on social services despite a high fiscal budget debt. At the same time, the global financial crisis affected the tourism sector as well as domestic food and energy prices (Koehler & Bonerjee, 2012: 2). According to Koehler and Bonnerjee (2012: 2), the response by the Nasheed Government had been to expand inter-island transport, universalise health insurance, protect social sectors (health, education, child and family welfare) while trimming the public sector wage bill, monetising the deficit, introducing taxes and seeking foreign investment through a programme of public-private partnerships. These reforms alienated a wide range of interest groups such as the rich business tycoons and the political elite, resulting in opposition from the major opposition political parties.

As also mentioned earlier in the thesis, the Adhaalath Party was a coalition partner of Nasheed's MDP Government. According to Azra Naseem (2012: 1) "there was nothing in common between the liberal minded President Nasheed and the ultra-conservative Adhaalath Party". As she suggests, this "turbulent political marriage of convenience came to an end in September 2011 when Adhaalath voted to sever the coalition agreement citing Nasheed's lack of cooperation in its efforts to 'strengthen' Islam in the Maldives" (Naseem, 2012: 1). From the time of the Gayoom Government, Islam had been used as a political tool in the Maldives to control the masses. Given the widespread alienation of a number of interest groups, especially the rich business tycoons, it was then not surprising that they used the support of the Adhaalath Party and its Islamist extremist supporters to rally against the Nasheed Government to bring it down.

Eight opposition parties and a coalition of religious NGOs united under the banner 'to protect Islam' and organised a protest for 23 December 2011, calling on all Maldivians to take part (Nazeer, 2012). Using the new found freedoms of democracy that the Nasheed Government had provided, and which

the opposition said they deplored, the newly formed 23 December Alliance was able to mobilise a large number of public, who were afraid of being labelled un-Islamic if they did not participate, to come out on the streets to demonstrate against the so-called anti-Islamic Nasheed Government on 23 December 2011. The reasons for holding the demonstrations included the monuments erected in Addu City donated by neighbouring South Asian Association for Regional Cooperation (SAARC) countries during the SAARC Summit held from 10-11 November 2011; the comments made by the UN Human Rights Commissioner on the issue of flogging; and the talk by opposition parties of Nasheed Government's close ties with Israel with the media reporting that Israel's national airline was being given permission to start scheduled flights to the Maldives (Faisal & Aslam, 2012).

From 23 December 2011, there was relentless bombardment of hate speeches against the Nasheed Government on the local TV and radio stations and in the newspapers, which were mostly opposition owned and controlled. A constant barrage of speeches aimed at indoctrinating the police and the military to not obey their elected ruler was part of this campaign. According to Minivan News (2012), added to this was the publication of a 30-page pamphlet by Dhivehi Qaumee Party (DQP) outlining "President Nasheed's devious plot to destroy the Islamic faith of Maldivians". Naseem (2012: 3) suggests that "there was very little that matters to Muslims that was not exploited for political gain in the publication". The pamphlet depicted the Nasheed Government's decision to re-establish relations with Israel as an "alliance with Jews" at the expense of Palestinians, and his bilateral ties with Western governments were portrayed as friendships with "enemies of Islam" (Minivan News, 2012: 1). As Naseem (2012: 3) states, "blatant lies, such as Christian priests being appointed as Nasheed's emissaries, were mixed in with facts that were twisted beyond recognition."

In addition to the above, on 16 January 2012, the Nasheed Government ordered the military to arrest the Chief Judge of the Criminal Court, Abdulla Mohamed, claiming that he was a threat to the national security of the country. Judge Abdulla Mohamed, who was appointed by President Gayoom, was known

to have displayed many unlawful acts on the bench, releasing dangerous criminals, causing excessive delays in decision making for police requests for court orders, using different standards for extensions of custody, taking excessively long times in completing trials (PO, 2012), and generally obstructing allies of former President Gayoom from facing justice (Lang, 2012). According to Omid (2012: 1), “allegations of judicial misconduct against Judge Abdulla Mohamed have stacked up over the years, his impunity highlighted by his ability to evade police questioning [...] accused of stonewalling cases – especially corruption – brought against opposition MPs with whom he has strong affiliations”. Nasheed’s arrest of the Chief Judge provided the opposition with an opportunity to marry his alleged anti-Islamic activities with his violation of the Constitution (Naseem, 2012), giving the anti-government supporters an opportunity to accuse President Nasheed of being a dictator (Lang, 2012). Adding to this was the drastically rising food and energy prices due to the global financial crisis and the devaluation of the currency, just as the country was recovering from the impacts of the 2004 Tsunami (Koehler & Bonerjee, 2012).

The ensuing tensions resulted in senior opposition figures calling for a police and military mutiny. After fourteen consecutive nights of opposition-led protests against the Nasheed Government’s ongoing detention of Judge Abdulla Mohamed, key opposition leaders were known to have met the Vice-President, Dr Mohamed Waheed in the early hours of 31 January 2012, pledging allegiance to him and urging him to assume control of the Executive (Robinson & Naish, 2012). After the meeting with the Vice-President, the leaders of the opposition parties emerged to hold a press conference, calling upon the security forces to immediately pledge their allegiance to the Vice-President. According to the local newspaper *Haveeru*, Vice-President Waheed had agreed to “take on the responsibilities in accordance with the Constitution [...] if the position of the president was vacated for whatever reason” (Hamdhoon & Ahmed, 2012: 1). What followed was a massive media campaign by key opposition politicians on the two opposition-owned TV channels – VTV and DhiTV. A constant barrage of justification and advice targeted more specifically at police and military personnel, and to the general public at large, presented constant messages

suggesting that they should not listen to 'unlawful orders' issued by their elected President. These messages claimed that President Nasheed was now no longer the leader of the country as he had violated the Constitution by arresting the Judge. Instead they called on the security forces and the people to rally round the Vice-President. These messages portrayed President Nasheed as un-Islamic, a heretic, crazy and a threat to the people.

The Coup d'état?

Daily protests and clashes between supporters of the 23 December Alliance and President Nasheed's party, MDP, followed with most of the events broadcast live on national television. On the evening of 6 February 2012, as had been the case for the past three weeks, both anti-government protestors and pro-government supporters gathered to protest at the Artificial Beach area in Malé. Police forces were also present. At around 10.30 pm that evening, with the protests becoming more violent, a riot control unit of the military was sent to replace the police forces at the scene. The police, however, refused to withdraw, and senior police officers had to be sent to the scene. After the senior officers' arrival, the police forces left and headed for the Police Headquarters despite orders for them to reconvene at a different location (Henriksen et al, 2012: 6). The protest area was eventually brought under control by the military just after midnight, which resulted in the anti-government protestors announcing the end of their protest for the day. However, instead of disbursing they gathered elsewhere and recommenced protesting. In the meantime, some of the police forces who had headed back to the Police Headquarters decided to proceed to the headquarters of President Nasheed's party, MDP, where they attacked the individuals present including senior members of the government (CONI, 2012: 37), and vandalised the building before returning to the Republic Square, where both the military and Police Headquarters were located.

According to intelligence reports, some of the mutinying police officers maintained contact with opposition politicians and efforts were made to bring additional police stationed in neighbouring islands to the Republic Square (Henriksen et al, 2012: 7). Confronted with a mutinying police force, the

Defence Minister ordered the military to bring them under military custody and to clear the Republic Square. By then additional police officers were joining the mutinying police officers, and the military commander did not believe that going to combat with mutinying police was the right decision. As these events unfolded, local broadcasting channels were conveying supportive messages from anti-government and religious leaders to the mutinying police officers. At around 2.30 am on 7 February 2012, a message from the Vice-President encouraging the activities that were going on in the Republic Square was broadcast on VTV. In his message, Vice-President Waheed said that he supported the peaceful efforts of a large number of Maldivians trying to protect the Maldivian Constitution and the religion and called upon law enforcement agencies to refrain from unconstitutional and illegal instructions (Faisal & Aslam, 2012: 24).

As Henriksen et al (2012: 7) report, at around dawn on 7 February 2012, President Nasheed went to the Republic Square to talk with the mutinying police officers where he told them that their actions were demeaning and asked them to hand themselves to the military immediately. He also guaranteed them that he would not allow anything bad to happen to them. But the mutinying police officers started yelling and screaming and refused to follow the President's instructions. At that point, President Nasheed went back inside the military headquarters. By then a large number of public including both pro- and anti-government supporters had assembled at the Republic Square and were throwing rocks and other objects at each other. Henriksen et al (2012: 8) also suggest that the military tried to prevent the demonstrators from getting any further into the Republic Square and near the military headquarters with the use of riot guns and tear gas, but at this time some military personnel decided to join the mutinying police officers. This encouraged the mutinying police officers and they started attacking the pro-government protestors. The military commander advised the President that he had failed in his mission and that he would be unable to hold their line and strength without resorting to the use of live ammunition. However, after witnessing these developments from the top of the military headquarters, President Nasheed ordered the military to lock up all

weapons, making it clear that he would under no circumstances allow the use of live firearms (Henriksen et al, 2012: 8).

Opposition demonstrators along with the mutinying police and military officers, assisted by the brother of the Vice-President, entered and took control of the state owned television station, TVM at around 7.45 am. Around the same time, two civilians – Mohamed Nazim, a retired senior military officer and Abdulla Riyaz, a retired senior police officer, appeared in front of the military headquarters and requested to meet with the Defence Minister and senior military officers claiming that they represented the mutinous forces (Henriksen et al, 2012: 8-9). After their meeting with the Defence Minister and senior military personnel, Nazim and Riyaz come out of the military headquarters to the Republic Square and announce to the waiting crowd live on television that they had presented their demand for the President to resign without any condition and to hand over all his powers to the Vice-President. In addition, they demanded the resignation of the Police Commissioner along with his two deputies – a demand which they claimed was non-negotiable. According to Henriksen, et al (2012: 9), a while later Nazim also announced that he would be in charge of the military from then on.

What followed thereafter were a chain of events that resulted in an announcement in the Republic Square of the decision that President Nasheed had decided to resign, much to the jubilation of the mutinying police and military officers as well as a number of senior opposition figures, and to the dismay of the MDP and pro-government supporters, who had been gathered there. Till today, what led President Nasheed to decide to resign at that point, while still inside the military headquarters and with no discussions with either his cabinet or party colleagues, remains a hotly debated topic in the Maldives. What the public saw broadcast live on all four TV channels was President Nasheed being driven out of the military headquarters under heavy armed guard to the President's Office which is less than 150 metres down the road. Once inside the President's Office, Nasheed held a brief meeting with members of his cabinet as well as advisory-level staff and told them that "he had no other

choice but to resign, and he did not want to employ the use of firearms and risk shedding blood” (Henriksen et al, 2012: 9). According to Henriksen et al (2012: 9), “when members of his cabinet asked him for alternative solutions, the President replied that his life and the lives of a lot of other people were at stake if he did not hand in his resignation”. After the meeting, President Nasheed wrote a short letter of resignation and delivered a speech rendering his resignation in front of the media at around 1 pm. Two hours later, on the same day, Vice-President Mohamed Waheed was sworn in as the new president.

Shortly after his resignation, President Nasheed publicly stated that his resignation had been under duress and called for early elections so that the people of Maldives could vote in a government of their choice. Nasheed’s resignation was followed by chaotic scenes of widespread rioting and destruction throughout the Maldives. Large numbers of demonstrators were out on the streets demanding the reinstatement of the Nasheed Government and calling for early elections so that democracy could be restored once more in the country. The demonstrators were violently beaten by the police and arbitrarily arrested. The Waheed Government’s response to the demonstrations and civil unrest was akin to or worse than the reactions during Gayoom’s thirty-year dictatorship. According to the International Federation for Human Rights (FIDH), “reports of human rights violations include violent repression of protests, arbitrary arrests, sexual harassment of female protestors, torture, harassment of pro-opposition media, assassination attempts of human rights defenders, total impunity for perpetrators of human rights violations, legal and physical harassment of opposition and whistle-blowers” (FIDH, 2012: 3). They also suggest that institutions which had been established to promote and protect human rights and democracy, including the Human Rights Commission of the Maldives, appear to be suffering from inertia due to political interference and unrest (FIDH, 2012: 3). FIDH (2012: 3) also claim that the state-organised violence by the police on 8 February 2012 that resulted in serious injury and arbitrary arrests remain unaddressed by the Waheed Government. Amnesty International (2012b: 2) declared that the Maldives was gripped by a serious human rights crisis since the resignation of President Nasheed.

What had triggered the anger of the people and created the resulting chaos of daily mass demonstrations calling for the resignation of the Waheed Government and holding of early elections was that one of the first appointments by President Waheed to his new cabinet was Nazim as the new Minister of Defence and Riyaz as the new Commissioner of Police. These appointments were followed by the appointment of Gayoom's daughter and son to two key ministerial portfolios as well as the appointment of a number of Gayoom loyalists and senior figures of the 23 December Alliance to the cabinet and senior government positions, leading many analysts to suspect that former President Gayoom was behind the ouster of President Nasheed (Chandrasekharan, 2012b; Malhotra, 2012). President Waheed's actions clearly did not seem to suggest that it was a continuation of the 2008 elected MDP government where the President had resigned and his Vice-President was taking over the presidential functions.

With regard to the legality of the transfer of power, even according to the Maldives Constitution and existing laws of the country, any participation by the military in an uprising that leads to the bringing down of the legal government is considered a coup. Although the Nasheed supporters claimed that it was a coup, all other political parties and the Waheed Government deemed that Nasheed had resigned and therefore, the transfer of power was legal. With daily demonstrations, clashes and civil unrest continuing, with a large number of women and young people joining Nasheed's supporters, a Commonwealth and UN backed Commission of National Inquiry (CONI) was set up to independently investigate the transfer of power.

After months of looking at video and CCTV footage as well as other evidence, and after talking to a number of key witnesses, the CONI Report published in August 2012, declared that the 7 February 2012 transfer of power in the Maldives was legal and that it was not a *coup d'état*. However, a vast majority of the Maldives population, including many who had given evidence to the CONI investigation, remained unconvinced that this was the case. CONI's

suggestion that the transfer of power was legal was disputed by a number of reports by international legal experts (see Perera et al, 2012 and Henriksen et al, 2012). In addition, a large number of Maldivian citizens, who witnessed the developments that occurred on 7 February 2012 live on TV, remain unconvinced that President Nasheed's resignation was voluntarily and not under duress.

According to Perera et al (2012: 5), the mandate granted to the Commission was "not to investigate whether the ouster of President Nasheed is politically justified, nor is it an evaluation of the manner in which the President discharged his powers and duties during his period of office". However, their analysis of the CONI Report showed that the Commission "had unilaterally incorporated into its mandate, concepts such as 'common good and public interest', which were not in any way part of the Commission's mandate" (Perera, et al, 2012: 6). They suggest that the CONI Report "defeats the rationale for establishing a Commission of National Inquiry, and amounts to a dangerous and severe erosion of the electoral franchise and mandate of the people [...] and appears to have been done for reasons of an extraneous nature and patently on very untested and conflicting material and evidence hastily gathered without due regard to the basic fundamental safeguards which should be followed and acted upon by an important Commission of this nature" (Perera et al, 2012: 36). They also add that "the Report offends the fundamental tenets of natural justice, transparency and good governance, including the right to see adverse material, which undermines the salutary tenets of the Rule of Law" (Perera, et al, 2012: 37). As some legal experts have suggested, "in the light of the overwhelming circumstantial evidence, it should hardly be for the opposition to prove that the current government perpetrated a *coup d'état* but rather for the latter to prove that it did *not*" (Henrikese, et al, 2012: 17).

Reaction from the International Community

International reaction to the disputed circumstances surrounding the resignation of President Nasheed was mixed. The first official reactions came from India and the United States who both recognised President Waheed's new

government (Henriksen et al, 2012: 10). Both India and the United States did, however, call for early elections to be held in the Maldives to clarify the constitutional situation in the country (Bosley, 2012; Fowler, 2012). The Commonwealth Ministerial Action Group (CMAG) reacted by suspending the Maldives from the group and calling for a new round of elections by the end of 2012 (Griffiths, 2012). The European Union was critical of the circumstances surrounding the resignation of President Nasheed, and called on all political parties to immediately engage in dialogue, to commit themselves to early presidential elections and to determine the legislative and constitutional measures required to ensure that these elections were free and fair (European Union, 2012). The European Union (2012: 1) also expressed the view that “the legitimacy and the legality of the transfer of presidential power should be determined by an impartial, independent investigation as agreed by all parties in the Maldives”.

Although the international community called for early elections in the Maldives, and a majority of the people were out on the streets demanding fresh elections, the new Waheed Government has thus far refused to hold elections. The reason that the new government cites for not holding early elections is that the 2008 Constitution remains silent on the holding of presidential elections except once in every five years. Instead it only agreed to the setting up of a Commission of National Inquiry (CONI) to explore the facts, circumstances and causes of events of 7 February 2012. Although the international community demanded an impartial and independent inquiry, the membership of the Commission that was set up was heavily biased to favour the incumbent government. After much pressure from the international community it allowed one member of Nasheed’s choice to be represented on the Commission at a much later date. The CONI Report was made public on 30 August 2012, and as was expected, it concluded that Nasheed had resigned voluntarily. The Report has, however, been heavily criticised for accepting the present government’s version of events without criticism, and not giving sufficient weight to the realities faced by Nasheed (Muller, et al, 2012) and what was witnessed by a number of people on TV. The refusal of the Waheed Government to hold early

elections clearly violates the Maldivian people's right to political participation as stated in Article 25 of the ICCPR, which is a violation of the more general right to self-determination (Henriksen, et al, 2012: 15).

International human rights organisations such as Amnesty International, FIDH and the Bar Human Rights Committee of England and Wales (BHRC) have all expressed their concern over the development of events in the Maldives after the transfer of power on 7 February 2012. Amnesty International (2012b: 4) reports sweeping violations of human rights with the police and the military targeting activists and supporters of Nasheed's Maldivian Democratic Party, "using unnecessary force against peaceful demonstrators, striking them on the head with truncheons, pepper spraying them in the eyes, and kicking and dragging them [...] with many of them being arbitrarily detained and tortured". FIDH (2012: 5) also reports the excessive use of force against a large number of women who had led pro-opposition protests, as well as the sexual harassment and molestation of female protestors in detention. These actions of the security forces clearly violate Article 238 of the Constitution which specifies that security forces must act in accordance with the Constitution and the law, and operate on the basis of accountability, with the President ensuring that these obligations are complied with (Hussain, 2008). They also violate the 2008 Police Act, which state that officers must not act "cruelly, in a degrading manner, inhumanely or mercilessly towards any person in any circumstance". In addition, these actions violate the Maldives' obligations under international human rights law, including the ICCPR and CAT, to protect everyone's right to freedom of expression, right to freedom of assembly and the right to prevent torture and other cruel, inhuman or degrading treatment or punishment.

On 13 July 2012, the UN Human Rights Committee (UNHRC) which looked at the initial periodic report of the Maldives on the ICCPR criticised the new Waheed Government with regard to the use of force since the overthrow of the Nasheed Government. The Committee expressed serious concern about systematic torture and the lack of a mechanism to investigate accusations of torture as well as the lack of impartiality of the judiciary and independent

institutions such as the Prosecutor General, the Police Integrity Commission and the Human Rights Commission of the Maldives (UNHRC, 2012). Other issues raised by the Committee included the limitations placed by the Constitution on the domestication of the ICCPR in the Maldives and the lack of training and awareness provided to judges, magistrates, prosecutors and lawyers on the provisions of the Covenant in order to ensure the protection of the rights of all citizens granted by the Covenant. In addition, the Committee also expressed concerns about the legal provisions in domestic law on the use of the death penalty, flogging, discriminations based on religion, gender and sexual orientation; and also highlighted the need to address issues of trafficking in persons (UNHRC, 2012).

Recent reports in the media, however, appear to suggest that the subsequent actions taken by the Waheed Government are in contradiction with the recommendations made by the UNHRC. For example, in November 2012, the Attorney General made an announcement that she had drafted a new bill on implementing the death penalty in the Maldives in accordance with Islamic Shari'ah, which was justified by claims that "the death penalty is still implemented in over 50 countries across the world even today" (Mohamed, 2012a). The last time the death penalty had been implemented in the Maldives was in 1953. A further example of the government trying to restrict or control even those fundamental rights enshrined in the 2008 Constitutions was seen with the introduction of the new bill on freedom of assembly introduced in December 2012. This bill was seen by many as restricting the constitutional right to freedom of assembly (Article 32), freedom of expression (Article 27) and press freedom (Article 28); when the Constitution clearly states that "all the powers of the state of the Maldives are derived from, and remains with, the citizens" (Mohamed, 2012b).

Where do we go from here?

The events of February 2012 in which President Nasheed resigned from office under claims of duress following weeks of public protests and increasing political tension has resulted in numerous human rights violations in the

Maldives, the overall responsibility for which rests with the new Waheed Government. The Government appears to have taken no concrete actions in order to stop the violence against the anti-government protestors, nor has it distanced itself from it (Henriksen, et al, 2012: 31). Former President Nasheed himself and his supporters were subjected to targeted attacks and protests were violently crushed just hours after his resignation in February 2012, and this campaign of violence effectively silenced government critics and any public debate about Nasheed's ouster (Muller et al, 2012: 10). So far, no security officials have been held accountable for any of the incidents even though the CONI Report itself recommends that "there is an urgent need for investigations to proceed and to be brought to public knowledge with perpetrators held to account and appropriately sanctioned" (CONI, 2012: 61). The CONI Report further recommends that "the judiciary must enjoy public confidence and where there are allegations about judges' conduct, the Judicial Services Commission must act in a timely and definitive way and report [...] and the Maldives needs to be assisted in strengthening the rule of law such that the institutions of the State may enjoy the public confidence necessary for a democratic society" (CONI, 2012: 61-62).

By India, US, the Commonwealth and the UN Secretary-General Ban Ki-moon, among others, endorsing the findings of the CONI Report wholesale, rather than bringing about the desired political stability which the international community hoped for, it created widespread tension and conflict between pro-democracy supporters and the supporters and allies of the current Waheed Government (Sathya Moorthy, 2012). With the publishing of the findings of the CONI Report, the Waheed Government's actions have been "in no way conciliatory to either former President Nasheed or of his party, MDP" (Chandrasekharan, 2012c: 2). According to Chandrasekharan (2012c: 2) what the new government's attitude implied in effect was to say "accept it and be done with it". Inevitably, it has resulted in Nasheed and his supporters claiming that the CONI Report legitimises the overthrow of the government, and has resulted in him calling on his supporters to take to the streets to topple the government through direct action.

In addition to the lack of attempts by the Waheed Government for any reconciliation, it has also gone on a path of making it impossible for Nasheed to contest in any upcoming elections in the Maldives, by laying charges against him. Opposition politicians from former President Gayoom's party, PPM as well as members from the DQP, have publicly declared that Nasheed would not be contesting in any future elections and would never be the President of the Maldives again (see Haveeru, 2012; Maidhu, 2012; Mohamed, 2012c; Press Trust of India, 2012; Robinson, 2012). Muller et al (2012: 2) confirm this in their report by claiming that "there are also concerns that a major motivation for charges brought against him [Nasheed] is to prevent him from running for president in the 2013 elections". As Ginsberg (2012: 2) suggests, "the high hopes for the country after the new Constitution and first ever democratic election in 2008 have been tempered by the events of February 2012, in which President Nasheed resigned from office under claims of duress following weeks of public protests and increasing political tension". This has resulted in a growing disagreement and increasing political tension on the best way forward. According to Ginsberg (2012: 2-3), many political observers believe that the Maldives is a case of a broken transition to democracy and unless considerable efforts were made to improve the structural and inherent problems with judicial capability linked in parallel to greater accountability measures, the most likely short-term political outcome is a cycle of failed governments.

The Maldives situation clearly demonstrates that free and fair elections and competing political parties does not guarantee a healthy democratic society (Henriksen et al, 2012). Instead, it can take years to stamp out the lingering remnants of dictatorship (Nasheed, 2012). As Henriksen et al (2012: 32) suggest, a well-functioning democracy requires key actors and institutions to have a democratic culture with a profound respect for democracy and democratic practices. According to Zunes (2012: 2), "democracy has the best chance of success if the leadership and initiative comes from within, not from 'regime change' from outside". One of the fundamentals, therefore, would be the common acceptance among politicians on the need to consult the people in

times of extraordinary political crisis to decide on the direction the society should take (Henriksen et al, 2012). Democracy and democratic processes, as suggested by Henriksen et al (2012: 32), test the fabric of the society and it is when the stakes and emotions run highest and the political differences the gravest, that society needs democracy and the processes it provides, the most.

The current political situation poses a real danger that the human rights gains of the recent past may have been lost. Amnesty International (2012b: 12) suggests that there are already signs that the country is slipping back into the old pattern of repression and injustice, although the government has a responsibility under the Constitution as well as international human rights law to prevent this from happening. According to them, the role of the international community is critical to ensure that the new government demonstrates a commitment to the promotion and protection of human rights. "If the Maldives now fails on its human rights path, it will be an indictment not just of its government, but also of major players who stood by and remained silent" (Amnesty International, 2012b: 12). As Henriksen et al (2012: 34) suggest, anyone familiar with the Maldives' history and the forces currently in play in the Maldives society knows that that the international community must continue to pressure the new government, as it may otherwise be generations before the people of the Maldives get the chance again to establish a true democracy which respects human rights.

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